

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

NORTHEAST CONTROLS, INC.	:	CIVIL ACTION – LAW
and	:	
ST. PAUL MERCURY INSURANCE COMPANY	:	
	:	
v.	:	
	:	
FISHER CONTROLS INTERNATIONAL, LLC	:	NO. 1:06-CV-00412 (SLR)

**PLAINTIFFS, NORTHEAST CONTROLS, INC. AND
ST. PAUL MERCURY INSURANCE COMPANY'S, OPPOSITION
TO DEFENDANT'S MOTION TO AMEND COUNTERCLAIM**

I. INTRODUCTION AND RELIEF REQUESTED

In response and opposition to Defendant Fisher Controls International, LLC's ("Fisher") *Motion to Amend Counterclaim*, Plaintiffs Northeast Controls, Inc. and St. Paul Mercury Insurance Company (*hereinafter* collectively "Northeast" unless contextually inconsistent) request this Court for an *Order* denying Fisher's *Motion* as it is untimely, patently prejudicial to the plaintiffs, and without basis in law or fact. The proposed amendment is a futile, if not sanctionable, claim filed more than five months after the deadline set by the *Scheduling Order* for amending the pleadings, and it is aimed at improperly pressuring Plaintiffs to withdraw their claims against Fisher and abandon any attempt at recovery.¹

II. NATURE AND STAGE OF THE PROCEEDINGS

This matter is in the nature of a subrogation action in which the plaintiffs seek reimbursement for expenses incurred in the defense of claims for personal injury and property damage arising out of a May 20, 2000 explosion and fire at the Delaware City Power Plant.

¹ Fisher filed its *Motion to Amend Counterclaim* on the same day as a voluntary settlement conference convened before U.S. Magistrate Judge Mary Pat Thyng. Two hours into the conference, Counsel and Judge Thyng learned, for the first time, that the *Motion* was being filed and that it was inextricably linked to Fisher's settlement posture.

Several lawsuits were instituted as a result of the explosion and fire including property damage claims by the owners and operators of the plant, as well as their insurer, and a personal injury claim by Mr. Ronald W. Olson, an employee of the plant's operator.

A. Background Facts and Underlying Litigation

At the time of the incident, the plant was undergoing a "re-powering" project. This project included the transfer of highly purified oxygen gas from a compressor in an air separation unit (ASU) through a series of control valves and pipes to a device known as a gassifier. The power plant facility was owned by Motiva Enterprises L.L.C. (Motiva), and operated by Conectiv Operating Services Co. (Connectiv), Mr. Olson's employer. Texaco, Inc. (Texaco) supplied gasification technology for this project; Parsons Energy and Chemicals Group, Inc. (Parsons) was the general contractor; and Praxair, Inc. (Praxair) was the supplier of the air separation unit, including its various components. One of those components was identified as valve No. 83HV0629 (the 629 valve). This valve was manufactured by Fisher. Northeast was a sales representative for Fisher. Praxair ordered the valve from Fisher through Northeast.²

The various defendants in the property damage cases and in the Olson personal injury case included Northeast and Fisher. Numerous other companies were sued as well, including Praxair, Motiva, Texaco, Parsons, and several more. The Complaints in all the underlying cases alleged that there were defects in the 629 valve, and that these defects caused the explosion and fire, and the resulting damage. Eventually, all the underlying cases were resolved by settlement and/or dismissal. None of the cases went to trial.

² The facts and pleadings of the underlying litigation upon which Northeast's indemnification claims are based and from which the recitation of facts within this paragraph and elsewhere herein are summarized, are set forth in detail within the Northeast's *Amended Complaint*, D.I. # 26, filed on April 4, 2007, and Exhibit B thereto, being the *Complaint* in the *Great American Assurance Co. v. Fisher Controls International, Inc., et al.*, property damage claim; and Exhibit C thereto, being the *Complaint* in the *Olson v. Motiva, et al.*, personal injury claim, all of which (property and personal injury claims) were consolidated under the *Olson* caption for discovery. *See also, generally*, the Affidavit of Thomas P. Wagner, Esquire, attached hereto as Exhibit 15 as to the factual averments.

Before any litigation was commenced by anyone, Northeast requested defense and indemnification from Fisher. This request was made in writing at least twice before the filing of any Complaint seeking damages.³ Northeast's requests for defense and indemnification were based upon a contract, the indemnification provisions of which provide the basis for the claim in this lawsuit. On January 1, 1998, Northeast and Fisher entered into a contract called the "Representative Agreement" which defined the parameters, duties and obligations of their business relationship.⁴ This Agreement was in effect both when the 629 valve was originally ordered and when the explosion and fire occurred at the plant.

Despite Northeast's pre-suit requests, and despite Northeast's crossclaims seeking indemnification in the various underlying lawsuits, Fisher refused to defend Northeast or indemnify it against the losses sued upon by the personal injury and property damage plaintiffs. Uniformly, the Complaints in these lawsuits included allegations of causal defects in the Fisher valve. Despite these allegations, however, Fisher has continued in its refusal to indemnify Northeast.⁵

Fisher's refusal to fulfill the contractual obligation it owes Northeast is based on its assertion, now, in defense of this action, that the losses sustained in this incident were somehow caused or contributed to by the negligence of Northeast. Fisher argues, therefore, that under the Representative Agreement, its obligation to defend and indemnify Northeast is nullified. That, however, is dramatically different from the position taken by Fisher itself in the underlying

³ *Amended Complaint*, D.I. # 26, at Exhibits D-F thereto, are Northeast's demands for indemnification and Fisher's response.

⁴ *Amended Complaint*, D.I. # 26, at Exhibit A thereto, is the "Representative Agreement". For the Court's convenience, a copy of the "Representative Agreement" is also attached hereto as Exhibit 1.

⁵ Despite Fisher's repeated refusal to defend and indemnify Northeast, it has never sought affirmative recovery from Northeast until now.

litigation. Fisher produced and served upon all the other parties to that litigation the expert report of Dr. Robert A. Mostello.⁶ Dr. Mostello concluded that the explosion and fire were caused entirely by acts of parties other than Northeast. Specifically, Dr. Mostello offered the opinion that the design of the oxygen piping system, combined with the methods employed to clean it, prepare it, and start up its operation resulted in the explosion and fire.⁷ The report offers no criticism of any act by Northeast, and it supports no connection between the conduct of Northeast and the explosion or fire.

The Representative Agreement contained a specific indemnity provision. This provision obligated Fisher to defend and indemnify Northeast. Fisher has failed to do so. The language of the Representative Agreement is clear. In pertinent part, the indemnity provision states as follows:

Fisher agrees that it shall, at its own expense, protect, defend, indemnify and hold harmless representative [Northeast] from and against any and all claims, demands, actions, losses, damages, liabilities, costs and expenses (collectively "losses") which may arise out of or be made in connection with the death or injury of any person, or damage to property . . . *resulting or claimed to result from any actual or alleged defect in any Product* (emphasis added).

Notwithstanding [the above], Fisher shall not be obligated to protect, defend, indemnify or hold harmless Representative from and against any losses arising from the following:

[. . .]

F. Negligent acts or omissions by Representative.

(Exhibit 1 hereto). Fisher is obligated to defend, indemnify and hold harmless Northeast against all claims, losses, damages, costs and expenses which arise out of or are made in connection with

⁶ *Amended Complaint*, D.I. # 26, at Exhibit G thereto, is the "Report on the Delaware City Explosion at the Delaware City, Delaware Facility of Motiva Enterprises on May 20, 2000" authored by Robert A. Mostello, PE, PhD.

⁷ *Amended Complaint*, D.I. # 26, at Exhibit G thereto, pp. 17-18 therein.

any personal injury or property damage "resulting or claimed to result from any actual or alleged defect in any Product." There is no question that the claims of both the property damage and the personal injury plaintiffs in the underlying litigations were for damages that were "claimed to result" from an "alleged defect" in the Fisher valve. The presence of the allegation of product defect in those Complaints is all that was necessary to trigger the indemnity obligation.⁸

Exhibits 2 through 11 hereto are Fisher's responsive pleadings in the underlying litigation⁹ by which Fisher answered the *Olson* complaint and cross-claims. The closest that Fisher came to any affirmative prayer for relief against Northeast was in its *Answer of Defendant Fisher Controls International, Inc. to First Amended Complaint*, (Exhibit 2 hereto), in which it stated a "Cross-Claim for Contribution" – not indemnification – stating "Should the jury find this answering defendant liable, Fisher requests that fault be apportioned among all defendants." The matters were resolved without any jury finding of liability. In responding to the various cross-claims, (Exhibits 3-11 hereto), Fisher did not even assert as an affirmative defense any claim against Northeast as reducing or barring its exposure. As a review of the docket sheet from the underlying litigation demonstrates, (Exhibit 12 hereto), although Fisher filed *Answers* to the claims and cross-claims (*I.e.*, Exhibit 12 at D.I. ## 25, 74, 85-86, 117-118, 130-131, 143, 184-196, 276-289, 328-335 [numerically reported out of order at pp. 29-30]), Fisher asserted no affirmative claims against any specific party including Northeast.

⁸ *Amended Complaint*, D.I. # 26, at Exhibit B thereto (Great American), Count I, ¶¶22—24, states a "Negligence" claim against "Fisher and Northeast" in six subparts; Count II, ¶¶25-30, states a "Warranty" claim against "Fisher and Northeast"; Count III, ¶¶31-34 states a "Contract" claim against "Northeast"; and within Exhibit C thereto (Olson), Count V, ¶39, states a "Negligence" claim against "Fisher and Northeast" in no less than five respects; Counts IX- XI, ¶¶43-45, state several "Breach of Warranty" claims against "Fisher and Northeast". None of the claims asserted by any plaintiffs in the underlying litigation averred any independent act(s) of negligence on Northeast's part.

⁹ The property damage cases were consolidated and captioned under the first-filed *Olson v. Motiva Enterprises, LLC*, Del. Super., Civ. A. No. 02C-04-263 (JRS), caption for the discovery and pre-trial phases.

B. Procedural Posture of this Litigation

The underlying litigation having been resolved without any finding of negligence against Northeast, and Fisher having failed and refused to fulfill its contractual obligation to defend and indemnify Northeast, once Northeast's losses were fixed and determined, Plaintiffs filed the instant action to recover the expenses incurred in the defense of the underlying litigation.

This action was commenced by the filing of the *Complaint* on June 28, 2006. (D.I. # 1). By *Scheduling Order* dated October 19, 2006, (D.I. # 16), certain deadlines were set including March 12, 2007, for the amendment of pleadings; and February 19, 2008, for the trial date. A mediation conference was scheduled to be conducted before the Honorable Mary Pat Thyng on June 26, 2007. (D.I. # 20). That conference was rescheduled and held on August 15, 2007. (D.I. # 32).

On the day of that voluntary mediation conference, Fisher filed the pending *Motion*, seeking an amendment of its counterclaim to pursue an affirmative recovery against Northeast for the first time since the May 20, 2000, explosion that gave rise to the underlying litigation.

III. ARGUMENT AND AUTHORITIES

Fisher's motion to amend its counterclaim is untimely and improper, patently prejudicial to the plaintiffs, and has no basis in law or fact. For the reasons set forth in detail below, Fisher's motion should be denied.

A. Rule 15(a) Amendment

Fisher seeks to amend its counterclaim pursuant to Rule 15(a) of the Federal Rules of Civil Procedure. (*Motion to Amend Counterclaim*, D.I. # 37, at pg. 1). The Rule states:

Amendments. A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served, or, if the pleading is one to which no responsive pleading is

permitted and the action has not been placed upon the trial calendar, the party may so amend it at any time within 20 days after it is served. ***Otherwise a party may amend the party's pleading only by leave of court or by written consent of the adverse party***; and leave shall be freely given when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service of the amended pleading, whichever period may be longer, unless the court otherwise orders.

Fed.R.Civ.P. 15(a) (emphasis added). Pursuant to Rule 15(a), Fisher may amend its pleadings only "by leave of court" and that leave to amend shall be given "when justice so requires."

Foman v. Davis, 371 U.S. 178, 182 (1962). While the discretion to grant or deny leave to amend rests with the Court, leave should not be granted where there is sufficient reason to deny it. *See Id.* at 182.

Sufficient reasons to deny leave to amend include undue delay, bad faith, dilatory motive on the part of the movant, undue prejudice to the opposing party, failure to cure deficiencies in former amendments, and futility of amendment. *See, In re: Burlington Coat Factory Sec. Litig.*, 114 F.3d 1410, 1434 (3d Cir. 1997). Despite Fisher's apparent dismissal of these considerations, nearly all of the reasons to deny leave to amend apply in the instant matter.

Fisher's delay can only be characterized as "undue." A *Scheduling Order* was entered on October 19, 2006. (D.I. # 16). That *Order* set March 12, 2007, as the date certain by which all amendments of the pleadings were to be completed. At no time did the Court change or extend this deadline. Northeast Controls timely filed its own *Motion to Amend the Complaint* by March 12, 2007, (D.I. # 23). It was not until five months after the deadline, and just two months before the discovery deadline, that Fisher filed the pending motion to amend in total disregard of the Court's Order. This Court has stated:

The purpose of a scheduling order is to provide concrete deadlines on which the parties can rely in planning their respective litigation

strategies. If the court were to permit parties to ignore these deadlines, unfair surprise would abound.

McLaughlin v. Diamond State Port Corp., 2004 U.S. Dist. LEXIS 25513, Civ. A. No. 03-617

(GMS) (D. Del. Dec. 21, 2004). This Court further stated:

An amendment should be denied, without requiring defendants [opposing parties] to demonstrate prejudice, when the amendment is grounded on "bad faith or dilatory motive, truly undue or unexplained delay"

Rose Hall, Ltd. v. Chase Manhattan Overseas Banking Corp., 93 F.R.D. 858 (D. Del. 1982)

(citing *Heyl v. Patterson International, Inc. v. F.D. Rich Housing of the Virgin Islands, Inc.*, 663 F.2d 419, 425 (3d Cir. 1981)).

Undue delay which is not satisfactorily explained is the equivalent of bad faith. *See, i.e., Rose Hall, Ltd. v. Chase Manhattan Overseas Banking Corp.*, 93 F.R.D. 858 (D. Del. 1982). A movant who offers no adequate explanation for its delay will ordinarily be denied leave to amend. *DDR L.L.C. v. Sears, Roebuck & Co.*, 171 F.R.D. 162, 167 (D. Del. 1997).

Fisher offers no explanation for its failure to seek leave to amend prior to the Court-Ordered deadline, nor does Fisher offer any new evidence in support of its motion to amend. The *Motion* does not present the question of whether Fisher's explanation for its delay is adequate. Fisher provides *no explanation* for its delay and failure to seek amendment of its counterclaim in accordance with the applicable deadline.

Fisher's blatant disregard of the Court's *Scheduling Order*, not even acknowledging the deadline in its submission to the Court, comes as an unfair surprise and, if granted, will result in undue prejudice to Northeast. From the inception of this litigation, Fisher knew the scope of its claims, but at no time – either within the underlying litigation, during its filing more than 1 year ago of its *Answer* to the *Complaint*, nor within its *Answer to the Amended Complaint* – has

Fisher ever sought, pursued or intimated any intention to assert affirmative claims for relief against Northeast.

After the mediation conference was rescheduled, Fisher and Northeast even stipulated to a *Revised Scheduling Order*, filed on July 3, 2007, (D.I. #34), at which time Fisher offered no request or inclination that it wished for additional time within which to amend its pleadings.

Accordingly, Fisher's unexplained and untimely *Motion to Amend Counterclaim*, filed five months after the applicable deadline and on the same day as a voluntary settlement conference before Judge Thyng, can only be viewed as a maneuver designed to avoid meaningful participation in settlement negotiations.¹⁰ For these reasons alone, Fisher's *Motion* should be denied.

B. Prejudice to Plaintiffs

Fisher's proposed amendment to its counterclaim against Northeast Controls, Inc. and St. Paul is patently prejudicial to the plaintiffs. Generally, "a party is unduly prejudiced if amendment would cause surprise, result in additional discovery, or add cost in the preparation to defend against new facts or theories." *Amquip Corp. v. Admiral Ins. Co.*, 231 F.R.D. 197, 199

¹⁰ The mediation conference with Judge Thyng was an exasperating experience. At the time of the original Rule 16 Conference in October of 2006, this Court asked counsel if we wished to participate in a Settlement Conference before the Magistrate Judge. Both Counsel agreed that their clients were interested in doing so, and for that reason, a conference was scheduled. The first available date Judge Thyng had was in late June of 2007. As the conference drew near, the Judge rescheduled it to August 15, 2007. Both sides submitted lengthy written statements to Judge Thyng in preparation for the conference, and the Judge told us that she spent the preceding weekend reading those statements. Fisher sent to the conference its lead counsel from Seattle, Washington and its in-house counsel from St. Louis, Missouri, in addition to its local counsel from Wilmington.

In light of the voluntary nature of the conference, and the considerable work by the parties and court to prepare for it, plaintiffs were stunned when they learned after more than two hours that Fisher's settlement posture had changed through the filing of its *Motion to Amend the Counterclaim*, and that it was unwilling to make any offer to settle this case. That message could have been delivered by a phone call, thereby saving us all a lot of trouble. Instead, however, Fisher informed the Court and the plaintiffs that it was filing, while the mediation was underway, its *Motion*. No copy of the Motion was brought to the conference, but after disclosing that it was being filed while the Parties were in conference with Judge Thyng, Fisher then informed the Court and Northeast that its settlement posture was linked to the *Motion* and that it would settle the case by dropping its amended counterclaim if Northeast withdrew and voluntarily dismissed its *Complaint*.

(E.D.Pa. 2005). Fisher's statement that "granting the motion to amend *cannot prejudice* the plaintiffs" is unbelievable at best. (*See* Defendant's *Motion* at page 13) (emphasis added). The proposed amendment seeks to expose plaintiffs to liability in excess of one million dollars, changing the theory of Fisher's counterclaim entirely. With the discovery deadline approaching (November 2, 2007) and the expert deadline even closer (September 4, 2007), Plaintiffs will be forced to defend a seven figure damage claim at the eleventh hour.

At a minimum, Fisher's claim to recover the costs and expenses incurred in the underlying litigation would require Plaintiffs to conduct extensive additional discovery on Fisher's damages. To date, Plaintiffs have only sought discovery regarding the amounts of Fisher's expenses and the firms to which they were paid. In order to defend Fisher's amended counterclaim, and request for affirmative recovery, Plaintiffs would be required to obtain much more information regarding the details of Fisher's expenditures in connection with the underlying litigation. This would require document discovery, depositions and consultation with experts. Plaintiffs would then need to develop an expert opinion on the reasonableness of the expenses.

It would be impossible for Northeast to accomplish all that would be required to mount a credible defense to a million dollar claim in the time remaining under the *Scheduling Order*. Paper discovery and depositions would need to be conducted before any expert retained by the Plaintiffs could prepare an evaluation and report. That simply cannot be done with an expert report deadline of September 4, 2007.

Plaintiffs would need discovery on other subjects as well. For instance, there is the entire area of the relationship between Fisher and its sales representatives. Northeast Controls is not the only sales representative for Fisher products in the United States. On the contrary, there are many such representatives, all of whom work under similar contractual relationships with Fisher.

In fact, those representatives are known to have an "executive committee" which conducts negotiations with Fisher from time to time about its representative agreement contracts. If this counterclaim is to proceed, Northeast would need documentary and deposition discovery on the relationship between Fisher and its other representatives in order to determine whether Fisher has made claims against other representatives under similar circumstances. This would have a direct bearing on whether Fisher ever believed or intended that it had the right to such damages under the Representative Agreement, particularly since Fisher drafted most or all of the contract language.

Fisher's contention that the proposed amendment does nothing to alter the case or to prejudice the plaintiffs could not be further from the truth. The damages component of Fisher's claim would be entirely changed by this amendment. Plaintiffs are now faced with the impossible task of conducting additional discovery and expert evaluation to refute a seven figure damage claim in less than two weeks. The prejudice to Plaintiffs is tremendous. Accordingly, Fisher's motion should be denied.

C. Lack of Basis in Law or Fact for Affirmative Recovery

Fisher alleges that its claim to recover attorney's fees and costs incurred in the defense of the underlying actions sounds in breach of contract. The Representative Agreement, however, provides no such right of recovery. The indemnity provision of the Representative Agreement provides:

Subject to the limitations set forth in the immediately succeeding paragraph of this Section XI, Fisher agrees that it shall, at its own expense, protect, defend, indemnify and hold harmless Representative from and against any and all claims, demands, actions, losses, damages, liabilities, costs and expenses (collectively, "Losses") which may arise out of or be made in connection with the death or injury of any person, or damage to property, by whomsoever suffered, resulting or claimed to result

from any actual or alleged defect in any Product. The obligations set forth in the immediately preceding sentence shall not apply unless Representative, upon receiving notice thereof, promptly notifies Fisher in writing thereof of such claim, demand or action, and thereafter reasonably cooperates with Fisher in the resolution thereof.

Notwithstanding the provisions of the immediately preceding paragraph of this Section XI or any other provision of the Agreement, Fisher shall not be obligated to protect, defend, indemnify or hold harmless Representative from and against any Losses arising from the following:

[. . .]

F. Negligent acts or omission by Representative.

(Exhibit 1 hereto at p. 10-11). That indemnification runs one-way, it is a duty owed by Fisher to Northeast. There is no reciprocal provision in the contract which requires, allows or otherwise contemplates a duty of indemnification owed by Northeast, including any recovery of counsel fees, to Fisher for any reason, even if a breach of contract is found.

The Representative Agreement is governed by Missouri law. (*See* Exhibit 1 hereto, at Section XII, p. 11-12). Under Missouri Law, parties are generally free to contract as they wish and courts will enforce contracts according their plain meaning, unless induced by fraud, duress, or undue influence. *See, i.e., Malan Realty Investors, Inc. v. Harris*, 953 S.W.2d 624, 626-27 (Mo. 1997). The contract language establishes that upon certain conditions, Fisher will defend and indemnify Northeast.

There is no corresponding provision providing any duty of defense and indemnity for Fisher by Northeast. There is simply no contractual right for the recovery Fisher seeks. Accordingly, in the absence of any *contractual* basis for that recovery, it would have to be found under statutory or common law as an extracontractual remedy. While Missouri law governs the

contract between Fisher and Northeast, any extracontractual damages sought by Fisher are governed by Delaware law.

Under Delaware law, "contracts of indemnification are strictly construed" and "where a contract addresses the issue of indemnification, the court will not enlarge the right of indemnification by implication" or otherwise beyond that for which the contract provides. *See, i.e., The Ryland Group, Inc. v. Santos Carpentry Co., Inc.*, 2004 Del. Super. LEXIS 87 at *14-*16 (March 25, 2004) (Exhibit 13 hereto) (citing in support, *Waller v. J.E. Brenneman Co.*, 307 A.2d 550, 551 (Del. Super. 1973)). In the event there exists any lack of clarity, "ambiguous contractual terms are construed against the drafter", *Id.*, being Fisher.

Further, "Where an action is based entirely on a breach of the terms of a contract between the parties, and not a violation of some [independent] duty imposed by law, a tort action will not lie, and the plaintiff must sue, if at all, in contract", *The Ryland Group*, 2004 Del. Super. LEXIS 87 at *19 (internal citations omitted), meaning, in this instance, Fisher can assert no extracontractual claims against Northeast.

Fisher does not allege either within its *Motion to Amend* nor within its proposed *Amended Counterclaim* that Northeast owes it any contractual duty of indemnification for its litigation costs. "Under Missouri law, a claim for indemnity may be maintained in one of two ways: an express agreement to indemnify or an implied (non-contractual) agreement to indemnify." *Irwin v. Hoover Treated Wood Products, Inc.*, 906 F.Supp. 530, 534 n.2 (E.D. Mo. 1995). There is no contractual provision requiring Northeast to indemnify Fisher and Missouri law, like Delaware law, does not permit any implied contractual indemnification where none exists. *Nusbaum v. City of Kansas City, Mo.*, 100 S.W.3d 101, 106-07 (Mo. 2003) ("The preferred construction of the indemnification provision at issue, one that provides a reasonable meaning to each phrase of

the provision, requires nothing more than that PC indemnify Dunn for PC's negligence even if Dunn participates in part in PC's negligent conduct."'). Absent such an express contractual provision contemplating indemnification, Fisher holds no claim against Northeast by which it may recover its fees and costs in defending the underlying litigation.

In addition, Delaware law does not permit a party to recover attorneys' fees unless authorized by statute or contract. *See, i.e., Casson v. Nationwide Ins. Co.*, 455 A.2d 361, 370 (Del. Supr. Ct. 1982). *See also, e.g., Northwestern Nat'l Ins. Co. v. Esmark, Inc.*, 672 A.2d 41, 44 (Del. 1996) (enforcing attorneys' fees provision in hold-harmless agreement); *Citadel Holding Corp. v. Roven*, 603 A.2d 818, 824 (Del. 1992) (enforcing attorneys' fees provision in indemnity agreement).

When recovery of such fees are authorized by statute or contract, a court should independently evaluate the reasonableness of the fees being sought. *Council of the Wilmington Condo. v. Wilmington Ave. Assocs., L.P.*, 1999 Del. Super. LEXIS 460, 1999 WL 1223792, at *3 (Del. Supr. Ct. Nov. 3, 1999) (Exhibit 14 hereto) (in a contract case, the court must independently evaluate reasonableness of fees sought; looking to factors set forth in Del. Prof. Cond. R. 1.5(a)) (citing *General Motors Corp. v. Cox*, 304 A.2d 55, 57 (Del. Supr. Ct. 1973) (statutory fee-shifting case)).

Here, the recovery of attorneys fees by Fisher is authorized by neither statute nor contract. The indemnity provision of the Representative Agreement is unambiguous that Fisher agrees to defend and indemnify Northeast. Nowhere in the contract is Northeast obligated to defend and indemnify Fisher. Similarly, Fisher cites no statute which would permit the affirmative recovery it now seeks. Assuming *arguendo* some otherwise undisclosed basis exists for Fisher to recover the costs incurred in the underlying litigation, the reasonableness of the fees

must be evaluated. As set forth above, this would require extensive additional discovery and further expert evaluation and reports, thus providing additional reasons for denying the *Motion*.

D. Fisher's Proposed Amendment Is Barred by the Statute of Limitations

Any breach of contract claim held by Fisher against Northeast accrued at the time of the alleged breach, being July 6, 1998, when Northeast communicated to Fisher the Praxair valve order upon which Fisher's attempted amendment to its counterclaim depends.¹¹ As Fisher avers in its *Motion*, "Northeast Controls had received one set of written specifications with the purchase order from Praxair, but the information that Northeast Controls sent to Fisher called for different materials for the construction of those critical components in the Valve." (*Motion*, D.I. # 37 at pg. 5 therein).

Under Missouri law,¹² "The limitations period begins to run when the cause of action accrues." *Capitol One Bank v. Creed*, 220 S.W.3d 874, 877 (Mo. Ct. App. 2007) (internal citations omitted). Missouri law allows a five year statute of limitations for the bringing of a breach of contract action. Mo. Rev. Stat. § 516.120. Consequently, the statute of limitations for any breach of contract claim Fisher might assert against Northeast expired as of July 5, 2003. Even allowing for a "time of discovery" tolling of the five year statute, as the event giving rise to

¹¹ Fisher's *Motion to Amend Counterclaim*, D.I. # 37, at Affidavit of Gunter, ¶11 therein, referencing Exhibit 4 thereto; and D.I. # 37-2, being the proposed *Answer to Amended Complaint and Amended Counterclaim* at ¶46 "The claims against both Northeast Controls and Fisher in the Underlying Actions were the direct result of Northeast Controls failure to convey to Fisher the specifications provided for the Valve by Praxair to Northeast Controls"; and ¶47, "In failing to convey to Fisher the specifications provided for the Valve by Praxair, Northeast Controls breached the Representative Agreement."

¹² By offering this analysis under Missouri law, Northeast is not conceding that the Missouri statute of limitations applies to Fisher's claims, merely that as noted, *infra*, the Missouri statute of limitations is more generous than the three years provided by Delaware law, 10 *Del. C.* § 8106, for both contract and tort claims, and like Missouri, in Delaware there is no tolling of a statute of limitations for a breach of contract claim. As stated within the *Ryland Group* decision, "If all parties were allowed to toll the statute of limitations until they learned of a legal theory of a proposed action or so pursued an action, there would be no purpose to the statute of limitations." 2004 Del. Super. LEXIS 87 at *11 (internal citation omitted). It is, however, acknowledged that under facts inapplicable to Fisher's breach of contract claim herein, there are provided under Missouri law limited exceptions for fraud or where a "layman-expert relationship" exists, *see, i.e., Anderson v. Griffin, Dysart, Taylor, Penner & Lay, P.C.*, 684 S.W.2d 858, 862 (Mo. App. 1984). Neither circumstance is available to save Fisher's breach of contract claim, however.

the underlying litigation occurred on May 20, 2000, (*Motion* at pg. 4), and Fisher discovered the alleged "discrepancy" in materials "Within days of the incident", (*Motion* at pg. 5), the limitations period expired no later than May 19, 2005.

However, Fisher did not assert a breach of contract claim against Northeast in the underlying litigation. (*I.e.*, Exhibits 2-12 hereto). In fact, the counterclaim in the present litigation is the first time Fisher has ever made such a claim against Northeast. Since the claim now asserted by Fisher was never made in the underlying litigation, any such breach of contract claim Fisher might have held was not preserved nor otherwise tolled or saved. Accordingly, Fisher's breach of contract claim and attempt at affirmative recovery from Northeast is time-barred.

By contrast, again with reference to Missouri law, "The filing of an action by a plaintiff against an indemnitee does not begin the running of the statute of limitations. . . . An action for indemnity is separate and distinct from the tort claim asserted by the plaintiff against the defendant." *Burns & McDonnell Engineering Co., Inc. v. Torson Constr. Co., Inc.*, 834 S.W.2d 755, 757 (Mo. Ct. App. 1992). While Missouri recognizes two distinct indemnification duties – both of which are applicable to Northeast's claims against Fisher herein – being for defense and loss, "The mere assertion of a claim against the indemnitee does not 'fix and establish' liability, but only subjects the party to potential liability to be determined with the outcome of the lawsuit. Therefore, a cause of action for indemnity against liability cannot accrue until the claim against the indemnitee is completely resolved. Only then is the party's liability 'fixed and established.'" *Id.* at 758.

And, with reference to Missouri statutory law, Mo. Rev. Stat. § 516.100, "the cause of action [for contractual indemnification] shall not be deemed to accrue . . . [until] the damage

resulting therefrom is *sustained* and *capable of ascertainment*, and, if more than one item of damages, then the last item, so that *all* resulting damage may be recovered, and complete relief obtained." *Burns & McDonnell Engineering Co., Inc.*, 834 S.W.2d at 759 (emphasis as in original). *Accord, Chesapeake Utilities Corp. v. Chesapeake and Potomac Tel. Co. of Md.*, 401 A.2d 101, 102 (Del. Super. 1979) ("[T]he claim accrues and the statute begins to run only when the cause of action for indemnity arises, or the indemnitee's liability is fixed and discharged. The determining factor is the point at which the indemnitee suffers loss or damage through payment of a claim after judgment or settlement. . . . This general rule is followed in Delaware.").

The underlying litigation concluded as concerns Northeast and Fisher upon the filing of a stipulation of dismissal in the Delaware Superior Court by which Northeast's cross-claims for indemnification against Fisher were preserved, (Exhibit 12 hereto at D.I. # 663, pg. 61 therein), on August 30, 2005. This means that Northeast's claim against Fisher in this Court by filing of the *Complaint* on June 28, 2006, (D.I. # 1), was timely whether considered under Missouri or Delaware law.

Fisher's breach of contract claim against Northeast, however, is time-barred by operation of either Missouri law or Delaware statute permitting a three year statute of limitations, 10 *Del. C.* § 8106. It is controlling that the only affirmative claim Fisher seeks to assert in its proposed *Answer to Amended Complaint and Amended Counterclaim*, (D.I. # 37-2), is "Breach of Contract" averring at ¶47 therein that "In failing to convey to Fisher the specifications provided for the Valve by Praxair, Northeast Controls breached the Representative Agreement." That alleged breach occurred 9 years ago. Accordingly, the statute of limitations under Missouri law has run and Fisher's claims are barred.

IV. CONCLUSION

Fisher's motion to amend its counterclaim should be denied. As set forth at length, the proposed amendment is untimely, patently prejudicial to the plaintiffs, has no basis in law or fact, and is barred by the applicable statutes of limitation, whether considered under Missouri or Delaware law. To permit Fisher to amend its counterclaim at this time would be to ignore the weight of precedent in this Court, as well as the Court's *Scheduling Order*, and would seriously prejudice the rights of Plaintiffs. Accordingly, it is respectfully requested that the motion be denied.

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

By: /s/ Thomas P. Wagner

Thomas P. Wagner, Esquire
1845 Walnut Street
Philadelphia, PA 19103
tel: 215-575-4562
Counsel for Plaintiffs

MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN

By: /s/ Joseph Scott Shannon

Joseph Scott Shannon, Esquire (I.D. 3434)
1220 North Market Street, 5th Floor
P.O. Box 8888
Wilmington, DE 19899 – 8888
tel.: 302.552.4329
e-mail: jsshannon@mdwcg.com
Counsel for Plaintiffs

Dated: August 29, 2007

***IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE***

NORTHEAST CONTROLS, INC.	:	CIVIL ACTION – LAW
and	:	
ST. PAUL MERCURY INSURANCE COMPANY	:	
	:	
	:	
v.	:	
	:	
	:	
FISHER CONTROLS INTERNATIONAL, LLC	:	NO. 1:06-CV-00412 (SLR)

CERTIFICATE OF SERVICE

Joseph Scott Shannon, Esquire, hereby certifies that on August 29, 2007, he caused true and correct copies of the foregoing *Response in Opposition to Defendant's Motion to Amend* to be served upon the following persons in the manner indicated:

RIDDELL WILLIAMS, P.S.
Patrick D. McVey, Esquire
Daniel J. Gunter, Esquire
1001 Fourth Avenue Plaza, Ste. 4500
Seattle, WA 98154
*Via 1st Class U.S. Mail,
postage prepaid*

MARON MARVEL BRADLEY
& ANDERSON, P.A.
Paul A. Bradley, Esquire
1201 North Market Street, Ste. 900
Wilmington, DE 19801
*Via e-filing and 1st Class U.S. Mail
postage prepaid*

MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN

/s/Joseph Scott Shannon
Joseph Scott Shannon, Esquire (I.D. 3434)
1220 North Market Street, 5th Floor
P.O. Box 8888
Wilmington, DE 19899 – 8888
tel.: 302.552.4329
e-mail: jsshannon@mdwccg.com
Counsel for Plaintiffs

EXHIBIT 1

ADDENDUM
TO
AGREEMENT
BETWEEN
FISHER CONTROLS INTERNATIONAL, INC.
AND
NORTHEAST CONTROLS, INC.

January 1, 1998

The subject agreement is hereby modified to include the following paragraph in Appendix G, Exhibit F, Section 4:

(h) While ISI may provide any terms and conditions it desires to End-Use Customers, ISI expressly agrees to conduct its sales to End-Use Customers such that the liability of Company and Fisher-Rosemount Systems, Inc. under ISI's sales to End-Use Customers is limited as set forth in Exhibit D; and ISI agrees that the liability of Company and Fisher-Rosemount Systems, Inc. is absolutely limited as set forth in Exhibit D. To the extent that ISI has not limited the liability of Company and Fisher-Rosemount Systems, Inc. as required by this Section 4 (h), ISI agrees that it shall, at its own expense, protect, defend, indemnify and hold harmless Company and Fisher-Rosemount Systems, Inc. from and against all claims, actions, losses, damages, liabilities, costs and expenses which may arise out of or be made in connection therewith.

Acknowledged and agreed:

NORTHEAST CONTROLS, INC.

By Michael J. Peters
Title: President

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REPRESENTATIVE AGREEMENT

THIS AGREEMENT, made this 1st day of January, 1998, by and between FISHER CONTROLS INTERNATIONAL, INC. having its principal offices at 8000 Maryland Avenue, Clayton, Missouri 63105 (hereinafter called "Fisher"), and NORTHEAST CONTROLS, INC., ~~Sitterly Road~~ *3 Bodentschen Drive*, Clifton Park, NY 12065 (hereinafter called "Representative"). *mjk 2/1/98*

WHEREAS, Fisher desires to appoint on its own behalf and has been duly authorized by the other companies identified in Appendix A hereto (each such company, including Fisher, is hereinafter referred to individually as a "Fisher Company" and collectively as the "Fisher Companies") to appoint Representative as a sales, engineering and service representative for Products of the Fisher Companies upon the following terms and conditions; and

WHEREAS, Representative represents that it is qualified to act as such a representative for the Fisher Companies in the Territory defined in Section I below pursuant to such terms and conditions;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

I. APPOINTMENT AND TERRITORY

Fisher hereby appoints Representative during the term of this Agreement, and Representative hereby accepts such appointment, as a sales, engineering and service representative for the Fisher Companies and for their designated products and related services as further described herein (said products and related services hereinafter referred to as "Products") in the territorial area specified in Appendix C hereto (hereinafter referred to as the "Territory").

It is understood that the Products included in this Agreement are those manufactured or supplied by the Fisher Companies specified in Appendix A unless otherwise excluded by such Appendix. The Fisher Companies shall also have the right, at any time, to amend or modify any Appendix to this Agreement upon written notice to Representative. This Agreement does not include representation for other subsidiaries or affiliated companies of the Fisher Companies or their products or services unless specifically listed in Appendix A.

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II. OBLIGATIONS OF REPRESENTATIVE**CONFIDENTIAL**

Representative shall:

- A. Use its best efforts to fully promote, and pursue all reasonable opportunities in the solicitation of orders for, the Products in the Territory at such prices, license fees, and upon such terms and conditions as may be from time to time specified by the Fisher Company for whom orders are solicited. All such orders shall be promptly transmitted to the Fisher Company on whose behalf the orders were solicited and shall be subject to the written approval and acceptance of such Fisher Company. In no event shall Representative accept any order or otherwise attempt to bind any Fisher Company in any transaction unless specifically authorized by the appropriate Fisher Company. All remittances by the customer to whom Products are sold or licensed shall be made directly by the customer to the relevant Fisher Company.
- B. Except to the extent limited by, and subject to the terms of, Section VII and Appendix D hereof, furnish engineering services, consistent with Fisher's standards and practices, to customers and potential customers, including without limitation, reviewing and evaluating the requirements for the Products and participating in the selection and designation of the proper Products and specifications therefor.
- C. Except to the extent limited by, and subject to the terms of, Section VII and Appendix D hereof, furnish proper technical services to all users of the Products located or installed in the Territory, including without limitation, assistance in connection with the start-up, check out and calibration of Products, the diagnosis of user inquiries concerning Products and the servicing of deficiencies in, and the performance of warranty obligations on, the Products in the manner specified from time to time by the Fisher Companies.
- D. Maintain in the Territory suitable premises, equipment and current technical and promotional literature for the Products, and employ sufficient and suitably qualified and trained technical, engineering and other competent personnel necessary to carry out the duties of Representative under this Agreement to the satisfaction of the Fisher Companies. Representative and its personnel shall maintain a working knowledge and familiarity with the Products, including associated services, and attend training sessions as appropriate to maintain such knowledge and familiarity.
- E. Keep the appropriate Fisher Companies fully informed of commercial and market conditions within the Territory and of the activities of customers and competitors, and regularly cover the trade and industry for the purposes of furthering sales of the Products.
- F. Provide the Fisher Companies periodically, as requested, with sales forecasts for the Products and customer evaluations.
- G. Assist, when requested, the Fisher Companies in obtaining relevant information relating to the financial standing and reputation of customers in order to evaluate credit risks.
- H. Maintain records in such form and in such detail as the Fisher Companies may reasonably request from time to time with respect to customers; outstanding quotations and orders; engineering and technical services and related activities; including plans

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drawings and other documents; and any other business matters relating to the Products; and promptly transmit such records to the relevant Fisher Company upon request.

- I. Not incur any liability on behalf of the Fisher Companies, or in any way pledge or purport to pledge the Fisher Companies' credit, or describe or hold itself out as an agent or employee of the Fisher Companies, or describe itself other than as a sales representative of the Fisher Companies for the performance of functions specified in, and pursuant to, this Agreement; or make any warranties or representations of any kind with respect to the Fisher Companies, the Products, or any other products of the Fisher Companies, other than to present to the prospective customer the specifications and description of the Products in the identical terms as supplied by the Fisher Company to Representative.
- J. Not, without Fisher's prior written consent, which shall not be unreasonably withheld, sell or distribute any products which are competitive with the Products.
- K. Not advertise or distribute any printed matter referring to the Products or to the Fisher Companies without the specific prior approval in writing of the relevant Fisher Company with regard to the form, manner, and content of such advertising and printed matter. All advertising by Representative shall be without recourse to any Fisher Company for any expense incurred unless such expense shall have been specifically authorized in writing by the relevant Fisher Company.
- L. Confer with, and establish to the satisfaction of, the appropriate Fisher Companies, goals and strategies for representation during the year covering such matters as orders by Product line and Representative's management structure, staffing and territorial coverage. Appropriate adjustments may be made during the term of this Agreement in the goals and strategies to take into account material events and circumstances affecting the representation, such as positive or negative changes in external business and economic conditions or the introduction by the Fisher Companies of additional products and programs.
- M. Abide by all laws and governmental rules and regulations applicable to Representative's and the Fisher Companies' activities hereunder. The Representative shall not make any bribes, kickbacks, or payments to governmental officials to obtain business, or other illegal payments.
- N. In its capacity as a commission representative, follow sales strategy developed by the Fisher-Rosemount Industry Solutions Group on those projects which have been identified as appropriate for a total Fisher-Rosemount integrated approach through the Fisher-Rosemount Industry Solutions Group. In such situations, Representative will not independently pursue a strategy for sale of the Products which is inconsistent with such Group strategy.

CONFIDENTIAL**III. FISHER ASSISTANCE**

The Fisher Companies shall support the activities of Representative with regard to its promotion of the Products, its solicitation of orders, and engineering and technical services. The Fisher Companies shall make available training and instruction for Representative and the Fisher Companies' customers with respect to the Products and shall make available to Representative technical data and literature covering the Products. Such training, instruction, technical data and literature will be provided at prices to be established from time to time by the Fisher Companies. The Fisher Companies shall advise Representative of their current price lists and discounts for their Products for purposes of soliciting orders hereunder.

The Fisher Companies reserve the right, in their absolute discretion, to decline to accept any order transmitted to them for acceptance by Representative or to decline to submit any tender on any inquiry transmitted to them by Representative.

IV. PURCHASE OF PRODUCTS FOR RESALE

In order to further its representative obligations hereunder, Representative agrees to purchase adequate quantities of Products, including spare parts, from the Fisher Companies for inventory purposes to meet the market demands and requirements of the Territory. Such Products will be sold to Representative at discounts from the then current published selling prices as established from time to time by the applicable Fisher Companies and under their standard terms and conditions of sale. Representative may extend the applicable Fisher Companies' warranties for such Products to its customer, provided such Products are not modified or are modified pursuant to and in accordance with the Fisher Companies' established procedures, but all other terms and conditions of resale, including price, are solely within the control and at the risk of Representative.

V. CONFIDENTIALITY PROVISIONS

As Representative may have heretofore received, and will in the future receive from time to time, confidential and proprietary information and data concerning the Products, research and engineering, developmental products and projects, business plans and operations of, or belonging to, the Fisher Companies and/or other companies with whom a Fisher Company has a business relationship (herein collectively referred to as "Fisher Information"), Representative agrees to treat, and to cause its officers and employees to treat, all such Fisher Information as the Fisher Companies' confidential property and not to divulge it to others at any time, or to use it for Representative's private purposes, or otherwise, except with the prior written authorization of the Fisher Company from which such Fisher Information originated and then only in the manner and to the extent authorized, unless or until such Fisher Information (a) becomes a part

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Company. Representative's obligation hereunder further applies to Fisher Information received by Representative in the course of Representative's prior, if any, representative capacity with any Fisher Company and shall continue beyond and after the termination or expiration of this Agreement, and at the termination or expiration of this Agreement, or at any time a Fisher Company so requests, Representative shall deliver to the Fisher Company all notes, memoranda, records, drawings or other documents and other information or materials pertaining to the Fisher Information, including all copies and reproductions thereof. Representative further agrees to obtain similar written undertakings from each of its employees having access to the Fisher Information.

VI. COMMISSIONS

- A. Subject to the provisions of Appendix E, the exceptions stated below in this Section VI, and to fulfillment of the undertakings by Representative to the Fisher Companies, the Fisher Company whose Products are sold in the Territory shall pay to the participating representative(s) and/or offices maintained by Fisher or its subsidiaries (hereinafter referred to as "sales office(s)", in consideration for its services hereunder, a purchasing, a territorial service, and/or an engineering commission with respect to the sale of Products by such Fisher Company in the Territory. The total available commission shall be computed on the basis of the F.O.B. Factory net price to the customer following discounts and allowances, if any, at the rates set forth in Appendix B hereto for the applicable Fisher Company. Payments will be made promptly following receipt of payment from the customer by the relevant Fisher Company. Commissions paid to Representative on any uncollectible account will be used as an offset against future commissions earned by, or invoiced to, Representative in accordance with its participation in the original commission payments. Representative agrees that the Fisher Companies may debit Representative's commission account any overdue amount owed by Representative to the Fisher Companies.
- B. The commission on sales of Products involving the active participation of more than one representative or sales office will be assigned to or proportioned between or among the participating representatives and sales offices by the Fisher Companies on the following basis:
1. All Sales (excluding sales of replacement parts or repairs having invoice value of under U.S.):
 - a. A *Purchasing Credit* of one-fourth (1/4) of the total available commission shall normally be given by the applicable Fisher Company to the representative or sales office in whose territory the order originates and shall be based upon the representative's or sales office's efforts in soliciting the order and assisting the customer and its purchasing function in connection therewith; in preparing the

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obtaining the order and the manner of processing the order through the relevant Fisher Company. The Fisher Companies shall have the discretion to make exceptions to the foregoing in unusual situations.

- b. A ***Territorial Service Credit*** of one-fourth (1/4) of the total available commission shall be given to the representative or sales office in whose territory the Product(s) is installed to cover the representative's service obligations.
- c. An ***Engineering Credit*** of one-half (1/2) of the total available commission will be given to the representative or sales office, or be retained, in whole or in part, by the applicable Fisher Company, based upon the engineering service provided to the customer. In determining the division of this credit, the Fisher Company will take into consideration the following aspects: (a) development of specifications to include Fisher Products; (b) detail engineering work with contractor or user, including quotations; (c) degree of insistence by ultimate user upon Fisher Products; (d) having contractor or user add the Fisher Companies to the list of acceptable bidders; and (e) the ratio of the engineering work carried out by Representative to the total engineering work required.

2. Replacement Parts or Repair Orders:

- a. Where the invoice is under U.S. \$. . . , all available commissions will be paid to the representative or sales office in whose territory the purchase order originates.
- b. Where the invoice value is U.S. \$1. . . or more, but less than U.S. \$. . . , the available commission will be divided equally, and will be paid, respectively, to the representative or sales office in whose territory the purchase order originates and to the representative or sales office in whose territory the parts are installed.
- c. Where the invoice value is U.S. \$. . . or more, the available commission will be divided in accordance with the provisions of Section VI-B-1, above; i.e., 1/4 Purchasing Credit, 1/4 Territorial Service Credit, and 1/2 Engineering Credit.

- 3. The final allocation of the available commission credits shall be determined at the discretion of the Fisher Companies in unusual circumstances. Consideration will be given to the work done by the representatives, sales offices, and the Fisher Companies.
- 4. Commissions paid under this Agreement on Products subsequently returned to Fisher shall be refunded in full by Representative, or at the Fisher Companies' discretion, may be charged back to Representative's commission account.

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- C. Unless specifically indicated in Appendix A hereto, it is agreed that Representative shall not be entitled to the applicable commission(s) on the following sales of Products, which sales are excluded from this Agreement:
1. Sales to subsidiaries of Fisher (companies in which Fisher has a direct or indirect majority ownership interest) or sales to licensees of Fisher or to the licensees of its subsidiary companies.
 2. Sales in respect of which Representative has failed to perform in accordance with the provisions of this Agreement.
 3. Sales by Fisher Companies in the Territory resulting from orders not obtained by Representative if this Agreement provides in Section I that Representative is a non-exclusive representative for the sale of such Products.
- D. If a Fisher Company shall refuse to accept or execute any order as provided in this Agreement, the Representative shall not be entitled to any commission or other remuneration in respect thereof.

VII. CERTIFICATION AND SUPPORT FEES PAYABLE BY REPRESENTATIVE

Representative agrees to pay support fees and certification fees to the Fisher Company specified in Appendix D hereto in accordance with the terms of Appendix D. Certification fees, if any, shall be paid by the Representative no later than March 1. Support fees, if any, shall be paid within 30 days of the end of each calendar quarter during the term of this Agreement with respect to receipts by Representative of qualifying payments from the customer in such quarter. Representative agrees that the Fisher Companies may debit the Representative's account any overdue amount owed by the Representative to the Fisher Companies pursuant to this Section VII and to Appendix D.

VIII. TERM

- A. This Agreement shall be effective for a period of one (1) year from the date set forth in the opening paragraph of this Agreement and will automatically terminate at the end of such period unless specifically renewed upon the further written agreement of Fisher and Representative, but subject to cancellation at any time as provided in paragraph C below.
- B. In the event of termination of this Agreement, the Representative shall be entitled to receive commissions, pursuant to Section VI above, as follows:
1. Commissions accruing to Representative on all shipments made before the date of termination shall be paid subject to the provisions of this Agreement.

2. No Territorial Service Commission shall be paid to Representative on shipments of Products made after the date of termination. A Purchasing Commission will be paid only on shipments made within 90 days after termination. The Engineering Commission shall be paid only on shipments made within one (1) year after termination.
 3. A reserve fund of commissions becoming due and payable after date of termination will be held for one year after termination to protect the Fisher Companies from loss on returned or rejected Products unless Representative provides the Fisher Companies with a bond or guarantee in form and substance acceptable to Fisher.
 4. Representative will deliver to the Fisher Companies or otherwise dispose of per the Fisher Companies' instructions, all sales and pricing data, literature, engineering prints and reports, copies of requisitions and orders, customer correspondence and the like that pertain to the Products. Any literature, catalogs, or other sales data that has been purchased from the Fisher Companies by Representative, and is still current, may be returned to the Fisher Companies, and the full invoice price less any transportation costs borne by the Fisher Companies will be refunded.
- C. Fisher shall also have the right without prejudice to any other rights it may have in law or by contract, to terminate this Agreement on behalf of the Fisher Companies, effective immediately upon notice to Representative, as a result of any of the following:
1. The insolvency of Representative or any of its owners/operators, or the filing of a voluntary or involuntary petition in bankruptcy or for a reorganization arrangement under applicable laws by or against any of them or their property; or the making of an assignment for the benefit of any of their creditors; or the voluntary or involuntary dissolution of Representative.
 2. The untrue statement of a material fact, or omission to state a material fact necessary to make the statements contained therein not misleading, in any information or statement furnished by Representative to a Fisher Company in connection with Representative's appointment as a Fisher Representative or Representative's performance pursuant to this Agreement.
 3. Any breach by Representative of any of the provisions of this Agreement or any other contractual or legal obligations of Representative to a Fisher Company.
 4. The non-attainment by Representative of the goals or strategies established pursuant to Section II.L.

5. The death or incapacity, or removal or withdrawal from the management of Representative, of any owner or key manager; or the voluntary or involuntary transfer of any ownership interest in Representative.
 6. Any act or omission of Representative or of any owner/operator which, in the sole opinion of Fisher, may damage or adversely affect or reflect upon Representative, a Fisher Company, the Products, or any performance pursuant to this Agreement.
- D. Nothing contained herein shall be deemed to create any express or implied obligation on either party to renew or extend this Agreement or, if Representative is continued or renewed as a Fisher representative after the term hereof, to create any right to continue such relationship on the same terms and conditions contained herein. Each party, in its sole discretion, shall have the right to determine, for any reason whatsoever, not to renew, continue or extend this Agreement. In addition to the foregoing, it is recognized and accepted by Representative that it is Fisher's policy not to extend representative agreements to persons who are, or will be, or entities whose principal owner is or will be, during the term thereof, sixty (60) years of age, except in those instances where Fisher, in its sole discretion, deems it to be in the best interests of its business.
- E. Neither party, by reason of the termination or non-renewal of this Agreement, shall be liable to the other for compensation, reimbursement or damages arising from any loss of anticipated sales or prospective profits or from any expenditures, investments, leases, property improvements or other matters related to the business or goodwill of the parties. Except as provided in Section VIII, there shall be no other payments of any kind or nature due to or made to Representative upon the cancellation or termination of this Agreement, notwithstanding any investment or expenditures incurred by Representative in order to facilitate the sale of Products hereunder.

IX. NON-ASSIGNMENT

Representative may not assign, transfer or delegate this Agreement or any of its rights or obligations under this Agreement without the prior written consent of Fisher, and any attempted assignment, transfer or delegation without such consent shall be deemed null and void and of no effect.

X. TRADEMARKS AND TRADE NAMES

- A. Representative acknowledges the validity of the trademarks and trade names which designate and identify the Products and further acknowledges that Fisher or its subsidiaries or affiliates are the exclusive owners of such marks and names.

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- B. Representative agrees that it may only use those Product trademarks which identify the Products it is authorized to sell and then only to further the promotion and sale of the Products such trademarks identify. Representative may only use such trademarks in their standard form and style as they appear upon the Products or as instructed in writing by Fisher. No other letter(s), word(s), design(s), symbol(s), or other matter of any kind shall be superimposed upon, associated with or shown in such proximity to the trademarks so as to tend to alter or dilute them and Representative further agrees not to combine or associate any of such trademarks with any other trademark or trade name. The generic or common name of the Product must always follow the trademark except in those instances when Representative uses the name "FISHER" when referring to a Fisher Company, in which event no generic or common name is required.
- C. In all advertisements, sales and promotional literature or other printed matter in which any of such trademarks appear, Representative must identify itself by its full name and address and state its relationship to the Fisher Company. Every such trademark used or displayed by Representative must be identified as a trademark owned by the relevant Fisher Company in the manner prescribed by Fisher.
- D. On its letterheads, business cards, invoices, statements, etc., Representative or sales office may identify itself as the sales representative of the relevant Fisher Company or Companies.
- E. Representative agrees that it will never use any trademark or trade name of Fisher or its subsidiaries or affiliates or any simulation of such marks or names as a part of Representative's corporate or other trading name or designation of any kind.
- F. Upon expiration or termination of this Agreement, Representative shall promptly discontinue every use of such trademarks, trade names, corporate logos and identities, and any similar styles and any language stating or suggesting that Representative is a sales representative of any Fisher Company, as well as any word or term resembling such names, marks, logos, identities or styles which would be likely to cause confusion or deception.

XI. INDEMNITY

Subject to the limitations set forth in the immediately succeeding paragraph of this Section XI, Fisher agrees that it shall, at its own expense, protect, defend, indemnify and hold harmless Representative from and against any and all claims, demands, actions, losses, damages, liabilities, costs and expenses (collectively, "Losses") which may arise out of or be made in connection with the death or injury of any person, or damage to property, by whomsoever suffered, resulting or claimed to result from any actual or alleged defect in any Product. The

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those set forth herein. No waiver by either Fisher, a Fisher Company or Representative with respect to any breach or default or of any right or remedy and no course of dealing, shall be deemed to constitute a continuing waiver of any other breach or default or of any other right or remedy, unless such waiver be expressed in writing signed by the party to be bound. If any term or condition of this Agreement or the application thereof is judicially or otherwise determined to be invalid or unenforceable, the remainder of this Agreement and the application thereof shall not be affected and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written by their respective authorized officials.

NORTHEAST CONTROLS, INC.
(Representative)

By Michael Peters
Title President

FISHER CONTROLS INTERNATIONAL, INC.

By Mark Hughes
Title Area Vice President, Northeast

EXHIBIT 2

25

FILED
PROTESTATORY
2002 JUN -7 PM 4:28

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

RONALD W. OLSON and
CAROL OLSON, his wife

Plaintiffs,

MOTIVA ENTERPRISES, L.L.C.;
BATTAGLIA MECHANICAL, INC.;
FISHER CONTROLS INTERNATIONAL,
INC.; HYDROCHEM INDUSTRIAL
SERVICES, INC.; JJ WHITE, INC.;
NORTHEAST CONTROLS, INC.;
PARSONS ENERGY AND CHEMICALS
GROUP, INC.; PRAXAIR, INC.; TEXACO
AVIATION PRODUCTS LLC; DAIKIN
INDUSTRIES, LTD.; SAINT-GOBAIN
PERFORMANCE PLASTICS; RIX
INDUSTRIES, INC.; TEXACO GLOBAL
GAS AND POWER; TEXACO
DEVELOPMENT CORPORATION;
GARY DELGREGO,

Defendants.

C.A. No. 02C-04-263 HLA

NON-ARBITRATION CASE

JURY TRIAL OF 12 DEMANDED

ANSWER OF DEFENDANT FISHER CONTROLS INTERNATIONAL, INC. TO FIRST
AMENDED COMPLAINT

Defendant Fisher Controls International, Inc. ("Fisher"), by and through its undersigned attorneys, answers plaintiffs' First Amended Complaint in correspondingly numbered paragraphs and sets forth its affirmative defenses and cross-claim for contribution. All allegations not specifically admitted are denied.

Parties

1. Fisher lacks knowledge or information sufficient to form a belief as to the truth of

the allegations set forth in paragraph 1 of the Amended Complaint and therefore denies the same.

2. Paragraph 2 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

3. Paragraph 3 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

4. Admitted.

5. Paragraph 5 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

6. Paragraph 6 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

7. Responding to the allegations set forth in the first sentence of paragraph 7 of the Amended Complaint, Fisher denies that defendant Northeast Controls, Inc., is a distributor of valves manufactured by Fisher. The remaining sentence of paragraph 7 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

8. Paragraph 8 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

9. Paragraph 9 of the Amended Complaint does not state any allegations as to Fisher

and therefore does not require a response from Fisher.

10. Paragraph 10 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

11. Paragraph 11 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

12. Paragraph 12 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

13. Paragraph 13 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

14. Paragraph 14 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

15. Paragraph 15 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

16. Paragraph 16 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

Background

17. Fisher lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 17 of the Amended Complaint and therefore denies the

same.

18. Fisher lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 18 of the Amended Complaint and therefore denies the same.

19. Responding to the first sentence of paragraph 19, Fisher admits that Praxair purchased from Fisher a valve ("the Valve") bearing the tag number 83HVO629. Responding further to the first sentence of paragraph 19, Fisher denies that Praxair purchased the Valve from Northeast Controls, Inc. Fisher lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the second sentence of paragraph 19 of the Amended Complaint and therefore denies the same.

20. Responding to the first sentence of paragraph 20 of the Amended Complaint, Fisher admits that the valve specifications provided to Northeast Controls indicated that the Valve would be utilized for oxygen service. Otherwise, Fisher objects that the allegations set forth in paragraph 20 of the Amended Complaint are vague and ambiguous and/or constitute legal conclusions and therefore denies the same.

21. Denied.

22. Responding to the allegations set forth in the first sentence of paragraph 22 of the Amended Complaint, Fisher objects that the term "designed" is vague and ambiguous.

Responding further to the allegations set forth in that sentence, Fisher admits that it manufactured the Valve and sold the Valve to defendant Praxair, Inc. Responding to the allegations set forth in the second sentence of paragraph 22, Fisher denies that it shipped the Valve to the Plant. Fisher lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the third sentence of paragraph 22 of the Amended Complaint and therefore denies the same.

23. Fisher lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 23 of the Amended Complaint and therefore denies the same.

24. Fisher lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 24 of the Amended Complaint and therefore denies the same.

25. Fisher lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 25 of the Amended Complaint and therefore denies the same.

26. Fisher lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 26 of the Amended Complaint and therefore denies the same.

27. Fisher lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 27 of the Amended Complaint and therefore denies the same.

28. Fisher lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 28 of the Amended Complaint and therefore denies the same.

29. Fisher lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 29 of the Amended Complaint and therefore denies the same.

30. Fisher lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 30 of the Amended Complaint and therefore denies the same.

31. Fisher lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 31 of the Amended Complaint and therefore denies the same.

32. Fisher lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 32 of the Amended Complaint and therefore denies the same.

33. Fisher lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 33 of the Amended Complaint and therefore denies the same.

34. Fisher lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 34 of the Amended Complaint and therefore denies the same.

Count I

Negligence – Texaco

35. Paragraph 35 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

Count II

Negligence – Motiva

36. Paragraph 36 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

Count III

Negligence – Parsons

37. Paragraph 37 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

Count IV

Negligence – Praxair

38. Paragraph 38 of the Amended Complaint does not state any allegations as to Fisher

and therefore does not require a response from Fisher.

Count V

Negligence – Fisher and Northeast

39. The allegations set forth in paragraph 39 of the Amended Complaint constitute legal conclusions to which no response is required. Responding further to those allegations, Fisher denies that it acted negligently in any manner in regard to the design, manufacture, assembly, or distribution of the Valve and denies all liability to Mr. Olson.

Count VI

Negligence – Battaglia

40. Paragraph 40 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

Count VII

Negligence – J.J. White

41. Paragraph 41 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

Count VIII

Negligence – Hydro

42. Paragraph 42 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

Count IX

Breach of Warranty – 6 Del. C. § 2-314 – Fisher and Northeast

43. The allegations set forth in paragraph 43 of the Amended Complaint constitute legal conclusions to which no response is required. Responding further to those allegations, Fisher denies that it breached any warranty in regard to the design, manufacture, assembly, or distribution of the Valve and denies all liability to Mr. Olson.

Count IX

Breach of Warranty – 6 Del. C. § 2-315 – Fisher and Northeast

44. The allegations set forth in paragraph 44 of the Amended Complaint constitute legal conclusions to which no response is required. Responding further to those allegations, Fisher denies that it breached any warranty in regard to the design, manufacture, assembly, or distribution of the Valve and denies all liability to Mr. Olson.

Count X

Breach of Warranty – 6 Del. C. § 2-313 – Fisher and Northeast

45. The allegations set forth in paragraph 45 of the Amended Complaint constitute legal conclusions to which no response is required. Responding further to those allegations, Fisher denies that it breached any warranty in regard to the design, manufacture, assembly, or distribution of the Valve, denies that Mr. Olson relied on Fisher's skill, knowledge, or expertise, and denies all liability to Mr. Olson.

Count XII

Negligence – GG&P

46. Paragraph 46 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

Count XIII

Negligence – Daikin

47. Paragraph 47 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

Count XIV

Breach of Warranty – 6 Del. C. § 2-314 – Daikin

48. Paragraph 48 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

Count XV

Breach of Warranty – 6 Del. C. § 2-315 – Daikin

49. Paragraph 49 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

Count XVI

Negligence – SGPP

50. Paragraph 50 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

Count XVII

Breach of Warranty – 6 Del. C. § 2-314 – SGPP

51. Paragraph 51 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

Count XVIII

Breach of Warranty – 6 Del. C. § 2-315 – SGPP

52. Paragraph 52 of the Amended Complaint does not state any allegations as to Fisher

and therefore does not require a response from Fisher.

Count XIX

Negligence – Rix

53. Paragraph 53 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

Count XX

Breach of Warranty – 6 Del. C. § 2-314 – Rix

54. Paragraph 54 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

Count XXI

Breach of Warranty – 6 Del. C. § 2-315 – Rix

55. Paragraph 55 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

Count XXII

Negligence – Texaco Development

56. Paragraph 56 of the Amended Complaint does not state any allegations as to Fisher and therefore does not require a response from Fisher.

Count XXIII

Loss of Consortium

57. Denied.

AFFIRMATIVE DEFENSES

1. The Amended Complaint fails to state a claim against Fisher upon which relief may be granted and therefore the Complaint should be dismissed as to Fisher.

2. Plaintiffs' damages and injuries, if any, were caused in whole or in part by the acts

or omissions of third parties, both named and unnamed, for whose conduct Fisher is not responsible.

3. Plaintiff's damages and injuries, if any, were caused in whole or in part by a misuse of the Valve that was not reasonably foreseeable.

4. The Valve conformed to the state of the art at the time of its manufacture.

5. Plaintiff's damages, if any, should be barred or reduced proportionally under the doctrine of comparative negligence because he failed to maintain a proper lookout for his own safety and failed to follow proper procedures for opening the valve.

6. Plaintiff assumed the risk of injury when he caused the Valve to open abruptly.

7. Fisher adopts and incorporates by reference any affirmative defense asserted by any other defendant to the extent such affirmative defense also applies to Fisher.

8. Fisher reserves the right to assert additional affirmative defenses disclosed through discovery or otherwise.

CROSS-CLAIM FOR CONTRIBUTION

Should the jury find this answering defendant liable, Fisher requests that fault be apportioned among all defendants.

PRAYER FOR RELIEF

Having fully answered the Amended Complaint and having asserted affirmative defenses, Fisher prays for the following relief:

1. That the Court dismiss the Amended Complaint with prejudice and that they take nothing;

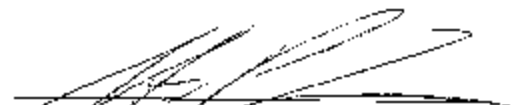
2. That Fisher be awarded its attorneys fees and all costs incurred in connection with this lawsuit;

3. That Fisher be awarded statutory costs and disbursements herein and the same be taxed against plaintiff;

4. That the Court award such other and further relief, general and special, legal or

equitable, to which Fisher may be entitled.

CASARINO, CHRISTMAN & SITALK, P.A.



Stephen P. Casarino
CASARINO, CHRISTMAN & SITALK, P.A.
Concettiv Building
800 North King Street, Suite 200
P.O. Box 1276
Wilmington, DE 19899
(302) 594-4500
Attorneys for Defendant
Fisher Controls International, Inc.

Dated: June 7th, 2002

OF COUNSEL:
Patrick D. McVey
Daniel J. Gunter
RIDDELL WILLIAMS P.S.
1001 Fourth Avenue Plaza, Suite 4500
Seattle, WA 98154-1065
(206) 624-3600
Attorneys for Defendant
Fisher Controls International, Inc.

CERTIFICATE OF SERVICE

I, Stephen P. Casarino, hereby certify that on this 7 day of June, 2002, two true and correct copies of the attached document were served on the following individual(s) via first class mail:

Randall E. Robbins, Esquire
Joseph C. Handlon, Esquire
Ashby & Geddes
222 Delaware Avenue
P.O. Box 1150
Wilmington, DE 19899

Gary W. Lipkin, Esquire
Cozen O'Connor
Chase Manhattan Centre
1201 N. Market Street, Suite 1400
Wilmington, DE 19801

Gary F. Traynor, Esquire
Prickett, Jones & Elliott
1310 King Street
P.O. Box 1328
Wilmington, DE 19899

Paul M. Lukoff, Esquire
Prickett Jones & Elliott
1310 King Street
Wilmington, DE 19899

Patrick D. McVey, Esquire
Riddell Williams P.S.
1001 Fourth Avenue Plaza
Suite 4500
Seattle Washington 98154


F. Warren Jacoby, Esquire
Cozen and O'Connor, P.C.
1900 Market Street
Philadelphia, PA 19103

Michael K. Tighe, Esquire
Tighe Cottrell & Logan, P.A.
First Federal Plaza, Suite 500
P.O. Box 1031
Wilmington, DE 19899

Lawrence Kalban, Esquire
V.P. and General Counsel
Parsons Energy and Chemicals Group, Inc.
P.O. Box 271787
Houston, TX 77277-1787

Warren A. Voter, Esquire
Sweeney & Sheehan
19th Floor
1515 Market Street
Philadelphia, PA 19102

Jacqueline M. Carolan, Esquire
Rox Rothschild O'Brien & Frankel, L.L.P.
2000 Market Street
Tenth Floor
Philadelphia, PA 19103-3291


- Stephen P. Casarino

SUPERIOR COURT CIVIL CASE INFORMATION STATEMENT (CIS)

COUNTY: N K S

Civil Action No:02C-04-263 HLA

CIVIL CASE CODE: CPINCIVIL CASE TYPE: Personal Injury

Caption:

Ronald W. Olson and Carol Olson his wife

v

Motiva Enterprises, L.L.C.; Battaglia Mechanical, Inc.; Fisher Controls International, Inc.; Hydrochem Industrial Services, Inc.; JJ White, Inc.; Northeast Controls, Inc.; Parsons Energy and Chemicals Group, Inc.; Praxair, Inc.; Texaco Aviation Products LLC; Daikin Industries, Ltd.; Saint-Gobain Performance Plastics; RIX Industries, Inc.; Texaco Global Gas and Power; Texaco Development Corporation; Gary Delgrego.

Name & Status of Party Filing Document

Defendant, Fisher Controls International, Inc.

Document Type:

Answer to First Amended Complaint

Arbitration Non-Arbitration XJury Demand X Yes No

Track Assignment Requested:

EXPEDITED STANDARD COMPLEX

ATTORNEY NAME:

Stephen P. Casarino, Esquire

FIRM NAME:

Casarino, Christman & Shalk

ADDRESS:

800 North King Street, Suite 200
P.O. Box 1276
Wilmington, DE 19899

TELEPHONE NUMBER:

302-594-4500

FAX NUMBER:

302-594-4509

E-MAIL ADDRESS:

scasarino@casarino.com

Identify any related cases now pending in the Superior Court by Caption and Civil Action No. including Judge's initials

Explain the relationship(s):

Other Unusual Issues that affect Case Management: (if additional space is needed, please attach pages)

THE PROTHONOTARY WILL NOT PROCESS THE COMPLAINT, ANSWER OR FIRST RESPONSIVE PLEADING IN THIS MATTER FOR SERVICE UNTIL THE CASE INFORMATION STATEMENT (CIS) IS FILED. THE FAILURE TO FILE THE CIS AND TO HAVE THE PLEADING PROCESSED FOR SERVICE MAY RESULT IN THE DISMISSAL OF THE COMPLAINT OR MAY RESULT IN THE ANSWER OR FIRST RESPONSIVE PLEADING BEING STRICKEN.

FILED
PROTHONOTARY
2007-08-29 PM 4:28

EXHIBIT 3

14

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

2002 JUL 19 PM 4:59

**RONALD W. OLSON and
CAROL OLSON, his wife**

Plaintiffs,

**MOTIVA ENTERPRISES, L.L.C.;
BATTAGLIA MECHANICAL, INC.;
FISHER CONTROLS INTERNATIONAL,
INC.; HYDROCIEM INDUSTRIAL
SERVICES, INC.; JJ WHITE, INC.;
NORTHEAST CONTROLS, INC.;
PARSONS ENERGY AND CHEMICALS
GROUP, INC.; PRAXAIR, INC.; TEXACO
AVIATION PRODUCTS LLC; DAIKIN
INDUSTRIES, LTD.; SAINT-GOBAIN
PERFORMANCE PLASTICS; RIX
INDUSTRIES, INC.; TEXACO GLOBAL
GAS AND POWER; TEXACO
DEVELOPMENT CORPORATION;
GARY DELGREGO.**

Defendants.

C.A. No. 02C-04-263 HLA

Non-Arbitration Case

JURY TRIAL OF 12 DEMANDED

**ANSWER OF DEFENDANT FISHER CONTROLS INTERNATIONAL, INC. TO
CROSSCLAIMS BY PRAXAIR, INC.**

Defendant Fisher Controls International, Inc. ("Fisher"), by and through its undersigned attorneys, answers the crossclaims asserted by defendant Praxair, Inc. All allegations not specifically admitted are denied.

**ANSWER TO CROSSCLAIM BY PRAXAIR, INC. AGAINST ALL DEFENDANTS FOR
INDEMNIFICATION AND/OR CONTRIBUTION**

1. To the extent that paragraph 1 of Praxair's Crossclaim Against All Defendants for Indemnification and/or Contribution ("Praxair's Crossclaim Against All Defendants") contains allegations concerning Fisher, Fisher denies all such allegations. To the extent that paragraph 1 of Praxair's Crossclaim Against All Defendants contains allegations concerning other

defendants, Fisher denies those allegations for lack of information and belief.

2. To the extent that paragraph 2 of Praxair's Crossclaim Against All Defendants contains allegations concerning Fisher, Fisher denies all such allegations. To the extent that paragraph 2 of Praxair's Crossclaim Against All Defendants contains allegations concerning other defendants, Fisher denies those allegations for lack of information and belief.

3. To the extent that paragraph 3 of Praxair's Crossclaim Against All Defendants contains allegations concerning Fisher, Fisher denies all such allegations. To the extent that paragraph 3 of Praxair's Crossclaim Against All Defendants contains allegations concerning other defendants, Fisher denies those allegations for lack of information and belief.

**ANSWER TO CROSSCLAIM BY PRAXAIR, INC., AGAINST DEFENDANTS FISHER
CONTROLS INTERNATIONAL, INC. AND NORTHEAST CONTROLS, INC. FOR
DEFENSE COSTS AND INDEMNIFICATION**

1. Responding to paragraph 1 of Praxair's Crossclaim Against Defendants Fisher Controls International, Inc. and Northeast Controls, Inc. for Defense Costs and Indemnification ("Praxair's Crossclaim Against Fisher and Northeast Controls"), Fisher admits that it was party to an Agreement with Praxair, but denies all further allegations set out in that paragraph.

2. Denied.

3. Fisher objects that paragraph 3 of the Praxair's Crossclaim Against Fisher and Northeast Controls is vague and ambiguous with respect to time. Subject to and without waiving its objection, and responding further to the first sentence of paragraph 3 of Praxair's Crossclaim Against Fisher and Northeast Controls, Fisher admits that during the order entry process for the Valve it became aware that the Valve would be utilized for oxygen service. Responding further to the second sentence of paragraph 3 of Praxair's Crossclaim Against Fisher and Northeast Controls, Fisher objects that the terms "designed" and "high pressure oxygen service" are vague and ambiguous. Subject to and without waiving its objections, Fisher denies every other allegation as to Fisher set forth in paragraph 3 of Praxair's Crossclaim Against Against Fisher and Northeast Controls. In addition, to the extent that paragraph 3 of Praxair's Crossclaim

Against Fisher and Northeast Controls sets forth allegations concerning Northeast Controls, Fisher denies those allegations for lack of information and belief.

4. To the extent that paragraph 4 of Praxair's Crossclaim Against Fisher and Northeast Controls contains allegations concerning Fisher, Fisher denies all such allegations. To the extent that paragraph 4 of Praxair's Crossclaim Fisher and Northeast Controls contains allegations concerning Northeast Controls, Fisher denies those allegations for lack of information and belief.

5. To the extent that paragraph 5 of Praxair's Crossclaim Against Fisher and Northeast Controls contains allegations concerning Fisher, Fisher denies all such allegations. To the extent that paragraph 5 of Praxair's Crossclaim Fisher and Northeast Controls contains allegations concerning Northeast Controls, Fisher denies those allegations for lack of information and belief.

6. To the extent that paragraph 6 of Praxair's Crossclaim Against Fisher and Northeast Controls contains allegations concerning Fisher, Fisher denies all such allegations. To the extent that paragraph 6 of Praxair's Crossclaim Fisher and Northeast Controls contains allegations concerning Northeast Controls, Fisher denies those allegations for lack of information and belief.

7. Responding to the allegations of paragraph 7 of Praxair's Crossclaim Against Fisher and Northeast Controls, Fisher admits that it was a merchant within the meaning of 6 Del. C. § 2-104, but denies that the Valve was defective. To the extent that paragraph 7 of Praxair's Crossclaim Fisher and Northeast Controls contains allegations concerning Northeast Controls, Fisher denies those allegations for lack of information and belief.

8. Denied.

9. Denied.

10. Denied.

11. Denied.

12. Denied.

AFFIRMATIVE DEFENSES

1. Praxair's Crossclaims fail to state a claim against Fisher upon which relief may be granted and therefore those Crossclaims should be dismissed as to Fisher.

2. Praxair's damages and injuries, if any, were caused in whole or in part by the acts or omissions of third parties, both named and unnamed, for whose conduct Fisher is not responsible.

3. Praxair's damages and injuries, if any, were caused in whole or in part by a misuse of the Valve that was not reasonably foreseeable.

4. The Valve conformed to the state of the art at the time of its manufacture.

5. Praxair's damages, if any, should be barred or reduced proportionally under the doctrine of comparative negligence because of Praxair's failures to design, inspect, install, and maintain the Valve and because of its improper operating procedures.

6. Praxair assumed the risk of injury by adopting improper operating procedures.

7. The Agreement between Praxair and Fisher disclaimed all warranties not expressly set forth therein.

8. The Agreement between Praxair and Fisher limited Praxair's remedies against Fisher.

9. Because of the independent negligence of Praxair and/or its agents or employees, Praxair is not entitled to a defense and/or indemnification by Fisher.

10. Fisher reserves the right to assert additional affirmative defenses disclosed through discovery or otherwise.

PRAYER FOR RELIEF

Having fully answered Praxair's Crossclaim Against All Defendants and Praxair's Crossclaim Against Fisher and Northeast Controls and having asserted affirmative defenses, Fisher prays for the following relief:

1. That the Court dismiss Praxair's Crossclaims with prejudice and that they take nothing;

2. That Fisher be awarded its attorneys fees and all costs incurred in connection with its defense against the Crossclaims;

3. That the Court award such other and further relief, general and special, legal or equitable, to which Fisher may be entitled.

McCARTER & ENGLISH, LLP

By: Paul A. Bradley
Paul A. Bradley
919 Market Street, Suite 1800
P.O. Box 111
Wilmington, DE 19899
(302) 984-6333
Attorneys for Defendant
Fisher Controls International, Inc.

Dated: July 19, 2002

OF COUNSEL:

RIDDELL WILLIAMS P.S.

Patrick D. McVey

Daniel J. Gunter

1001 Fourth Avenue Plaza, Suite 4500

Seattle, WA 98154-1065

(206) 624-3600

Attorneys for Defendant

Fisher Controls International, Inc.

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

RONALD W. OLSON, and	)	C.A. No. 02C-04-263 HLA
CAROL OLSON, his wife,)	
)	
Plaintiffs,)	
	)	Non-Arbitration Case
v.)	
)	
MOTIVA ENTERPRISES L.L.C.; BATTAGLIA)	
MECHANICAL, INC.; FISHER CONTROLS)	
INTERNATIONAL, INC.; HYDROCHEM)	
INDUSTRIAL SERVICES, INC.; JJ WHITE,)	
INC.; NORTHEAST CONTROLS, INC.;)	
PARSONS ENERGY AND CHEMICALS)	
GROUP, INC.; PRAXAIR, INC.; TEXACO)	
AVIATION PRODUCTS LLC; DAIKIN)	
INDUSTRIES, LTD.; SAINT-GOBAIN)	
PERFORMANCE PLASTICS; RIX)	
INDUSTRIES, INC.; TEXACO GLOBAL)	
GAS AND POWER; TEXACO DEVELOPMENT)	
CORPORATION; GARY DELGREGO,)	
)	
Defendants.)	

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of July, 2002, two copies of Defendant Fisher Controls International, Inc.'s Answer to Crossclaims by PRAXAIR, Inc., were served on the following individuals by first-class mail, postage prepaid:

Paul M. Lukoff, Esquire
Prickett Jones & Elliott
1310 King Street
Wilmington, DE 19899

F. Warren Jacoby, Esquire
Cozen & O'Connor, P.C.
1900 Market Street
Philadelphia, PA 19103

Gary W. Lipkin, Esquire
Cozen & O'Connor, P.C.
Chase Manhattan Center
1201 North Market Street
Suite 1400
Wilmington, DE 19801

Warren E. Voter, Esquire
Sweeney & Sheehan
1515 Market Street, 19th Floor
Philadelphia, PA 19102

Randall E. Robbins, Esquire
Joseph C. Handlon, Esquire
Ashby & Geddes, P.A.
222 Delaware Avenue, 17th Floor
P.O. Box 1150
Wilmington, DE 19899

Michael K. Tighe, Esquire
Tighe, Cottrell & Logan, P.A.
First Federal Plaza, Suite 500
P.O. Box 1031
Wilmington, DE 19801

Donald M. Davis, Esquire
Margolis Edelstein
The Curtis Center, Fourth Floor
Philadelphia, PA 19106-3304

Bradford J. Sandler, Esquire
Adelman Lavine Gold and Levin
1100 N. Market Street, Suite 1100
Wilmington, DE 19801

Kimberly L. Gattuso, Esquire
Saul Ewing, LLP
222 Delaware Avenue
Suite 1200
Wilmington, DE 19801

Saint-Gobain Performance Plastics
7301 Orangewood Avenue
Garden Grove, CA 92841

Northeast Controls, Inc.
Michael J. Peters, Chairman
51 Timberwick Drive
Clifton Park, NY 12065

Roger D. Landon, Esquire
Murphy Spadaro & Landon
824 Market Street
P.O. Box 8989
Wilmington, DE 19899

RTX Industries
4900 Industrial Way
Benicia, CA 94510

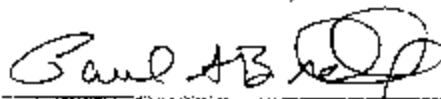
Daikin Industries, Ltd.
Umeda Center Building
2-4-12 Nakazaki-Nishi, Kita-Ku
Osaka 530-8323
Japan

Gregory B. Williams, Esquire
Sheldon K. Rennie, Esquire
Mellon Bank Center
919 North Market Street
Suite 1400, 14th Floor
Wilmington, DE 19801-3046

Texaco Global Gas and Power
c/o Texaco
Registered Agent
Prentice Hall
2711 Centerville Road, Suite 400
Wilmington, DE 19808

MCCARTER & ENGLISH, LLP

By:



Paul A. Bradley
919 Market Street, Suite 1800
P.O. Box 111
Wilmington, DE 19899
(302) 984-6300
Attorneys for Defendant
Fisher Controls International, Inc.

Dated: July 19, 2002

OF COUNSEL:

RIDDELL WILLIAMS P.S.

Patrick D. McVey

Daniel J. Gunter

1001 Fourth Avenue Plaza, Suite 4500

Seattle, WA 98154-1065

(206) 624-3600

Attorneys for Defendant

Fisher Controls International, Inc.

SUPERIOR COURT CIVIL CASE INFORMATION STATEMENT (CIS)

COUNTY: (N) K SCIVIL ACTION NUMBER: 02C-04-263 HLACivil Case Code CPINCIVIL CASE TYPE 59 Personal Injury2007 JUL 19 PM 4
PROTHONOTARY

CAPTION:

RONALD W. OLSON and
CAROL OLSON, his wife,

Plaintiffs,

MOTIVA ENTERPRISES, L.L.C.; BATTAGLIA
MECHANICAL INC.; FISHER CONTROLS
INTERNATIONAL, INC.; HYDROCHEM
INDUSTRIAL SERVICES, INC.; JJ WHITE, INC.;
NORTHEAST CONTROLS, INC.; PARSONS
ENERGY AND CHEMICALS GROUP, INC.;
PRAXAIR, INC.; TEXACO AVIATION
PRODUCTS, LLC; DAIKIN INDUSTRIES, LTD.;
SAINT-GOBAIN PERFORMANCE PLASTICS;
RIX INDUSTRIES, INC.; TEXACO GLOBAL GAS
AND POWER; TEXACO DEVELOPMENT
CORPORATION; GARY DELGREGO,

Defendants.

NAME AND STATUS OF PARTY FILING DOCUMENTS:

Defendant, Fisher Controls International, Inc.

DOCUMENT TYPE: (E.G.: COMPLAINT; ANSWER TO
COMPLAINT)Answer of Defendant Fisher Controls International,
Inc. to Crossclaims by PRAXAIR, INC.Non-Arbitration ☒
(Certificate of Value may be required)Arbitration ☐ Mediation ☐ Neutral Assessment ☐

Defendant (circle one) (ACCEPT) REJECT

Jury Demand ☒ Yes ☐ No

Track Assignment Requested (circle one)

EXPEDITED STANDARD (COMPLEX)

Attorney Name(s):

Paul A. Bradley, Esquire

Attorney I.D.(s):

D.E. #2156

Firm Name:

McCarter & English, LLP

Firm Address:

919 N. Market Street, Suite 1800
P.O. Box 111
Wilmington, DE 19899

Telephone Number:

(302) 984-6333

Fax Number:

(302) 984-6399

E-Mail Address:

pbradley@mccarter.com

Identify any related cases now pending in the Superior Court by
caption and civil action number including Judge's initials.PRAXAIR, INC. v. Fisher Controls International,
Inc., et al. C.A. No. 02C-05-190 (HLA)GREAT AMERICAN ASSURANCE CO., v.
Fisher Controls International, Inc., et al.
C.A. No. 02C-05-168 (HLA)

EXPLAIN THE RELATIONSHIP(S):

Arise from the same incident.

Other unusual issues that affect case management:

THE PROTHONOTARY WILL NOT PROCESS THE COMPLAINT, ANSWER, OR FIRST RESPONSIVE PLEADING IN THIS
MATTER FOR SERVICE UNTIL THE CASE INFORMATION STATEMENT (CIS) IS FILED. THE FAILURE TO FILE THE CIS
AND HAVE THE PLEADING PROCESSED FOR SERVICE MAY RESULT IN THE DISMISSAL OF THE COMPLAINT OR MAY
RESULT IN THE ANSWER OR FIRST RESPONSIVE PLEADING BEING STRICKEN.

EXHIBIT 4

117

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY 2007 AUG 29 11:34 AM

RONALD W. OLSON and)
CAROL OLSON, his wife) **C.A. No. 02C-04-263 JRS**

Plaintiffs,) **Non-Arbitration Case**
v.)

MOTIVA ENTERPRISES, L.L.C.;)
BATTAGLIA MECHANICAL, INC.;)
FISHER CONTROLS INTERNATIONAL,)
INC.; HYDROCHEM INDUSTRIAL)
SERVICES, INC.; JJ WHITE, INC.;)
NORTHEAST CONTROLS, INC.;)
PARSONS ENERGY AND CHEMICALS)
GROUP, INC.; PRAXAIR, INC.; TEXACO)
AVIATION PRODUCTS LLC; DAIKIN)
INDUSTRIES, LTD.; SAINT-GOBAIN)
PERFORMANCE PLASTICS; RIX)
INDUSTRIES, INC.; TEXACO GLOBAL)
GAS AND POWER; TEXACO)
DEVELOPMENT CORPORATION;)
GARY DILGREGO,)
Defendants.)

-----)
NORTHEAST CONTROLS, INC.,)
Third-party Plaintiff,)

v.)
CONNECTIV OPERATING SYSTEMS.)
Third-party Defendant.)

**DEFENDANT FISHER CONTROLS INTERNATIONAL, INC.'s
ANSWER TO CROSS-CLAIMS OF DEFENDANT NORTHEAST CONTROLS, INC.**

Defendant Fisher Controls International, Inc. ("Fisher"), by and through its undersigned attorneys, answers the Cross-Claims of defendant Northeast Controls, Inc. ("Northeast Controls' Cross-Claims"). All allegations not specifically admitted are denied.

**ANSWER TO CROSS-CLAIMS AGAINST DEFENDANT FISHER CONTROLS
INTERNATIONAL, INC.**

- 58. Denied.
- 59. Admitted.
- 60. Denied.

ANSWER TO CROSS CLAIMS AGAINST ALL OTHER CO-DEFENDANTS

61. To the extent that paragraph 61 of Northeast Controls' Cross-Claims contains allegations concerning Fisher, Fisher denies all such allegations. To the extent that paragraph 61 of Northeast Controls' Cross-Claims contains allegations concerning other defendants, Fisher states that it is not required to respond to those allegations.

PRAYER FOR RELIEF

Having fully answered Northeast Controls' Cross-Claims, Fisher prays for the following relief:

- 1. That the Court dismiss Northeast Controls' Cross-Claims against Fisher with prejudice;
- 2. That Fisher be awarded its attorneys fees and all costs incurred, plus interest, in connection with its defense against Northeast Controls' Cross-Claims against Fisher;
- 3. That the Court award such other and further relief, general and special, legal or

equitable, to which Fisher may be entitled.

McCARTER & ENGLISH, LLP



Paul Bradley

McCARTER & ENGLISH, LLP

Mellon Bank Center

919 Market Street, Suite 1800

Wilmington, DE 19899

(302) 654-8010

Attorneys for Defendant

Fisher Controls International, Inc.

Dated: August 9, 2002

OF COUNSEL:

Patrick D. McVey

Daniel J. Gunter

RIDDELL WILLIAMS P.S.

1001 Fourth Avenue Plaza, Suite 4500

Seattle, WA 98154-1065

(206) 624-3600

CERTIFICATE OF SERVICE

I, Paul A. Bradley, Esquire, hereby certify that two copies of the attached Answer of Defendant Fisher Controls to Cross-Claims of Defendant Northeast Controls, Inc. were served this 9th day of August 2002, to the following parties by first-class mail prepaid:

Randall E. Robbins, Esquire
Joseph C. Handlon, Esquire
Ashby & Geddes
P.O. Box 1150
222 Delaware Avenue, 17th Floor
Wilmington, DE 19899
Attorneys for Plaintiffs

Paul M. Lukoff, Esquire
Prickett, Jones & Elliott, P.A.
1310 N. King Street
P.O. Box 1328
Wilmington, DE 19899-1328
Attorney for Motiva Enterprises

Donald M. Davis, Esquire
Margolis Edelstein
The Curtis Center, 4th Floor
Independence Square West
Philadelphia, PA 19106-3304

Michael K. Tighe, Esquire
Tighe, Cottrell & Logan, P.A.
First Federal Plaza, Suite 500
P.O. Box 1031
Wilmington, DE 19899
Attorney for Battaglia Mechanical, Inc.

Gregory B. Williams, Esquire
Sheldon K. Rennie, Esquire
Fox Rothschild O'Brien & Frankel
Mellon Bank Center
919 N. Market Street
Wilmington, DE 19801
Attorneys for Parsons Energy and Chemical Group

Roger D. Landon, Esquire
Murphy, Spadaro & Landon
824 N. Market Street, Suite 700
P.O. Box 8989
Wilmington, DE 19899-8989
Attorney for HydroChem Industrial Services

Jacqueline M. Carolan, Esquire
Fox Rothschild O'Brien & Frankel
2000 Market Street, 10th Floor
Philadelphia, PA 19103
Attorney for Parsons Energy and Chemicals Group

Brandford J. Sandler, Esquire
Adelman, Lavine Gold and Levin, P.C.
The Wilmington Trust Building
1100 N. Market Street, Suite 1100
Wilmington, DE 19801
Attorney for J.J. White, Inc.

Delia A. Clark, Esquire
Rawls & Henderson, LLP
One Commerce Center
1201 N. Orange Street, Suite 786
Wilmington, DE 19801
Attorney for Northeast Controls, Inc.

Kimberly L. Gattuso, Esquire
Saul Ewing, LLP
222 Delaware Avenue, Suite 1200
Wilmington, DE 19801
Attorney for Texaco and Gary Delgrego

Saint-Gobain Performance Plastics
7301 Orangewood Avenue
Garden Grove, CA 92841

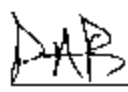
RIX Industries, inc.
4900 Industrial Way
Benicia, CA 94510

Warren E. Voter, Esquire
Sweeney & Sheehan
1515 Market Street, 19th Floor
Philadelphia, PA 19102

Daikin Industries, LTD
Uneda Center Building
2-4-12 Nakazaki-Nishi, Kita-Ku
Osaka 530-8323
Japan

MCCARTER & ENGLISH, LLP

By:



Paul A. Bradley
919 Market Street, Suite 1800
P.O. Box 111
Wilmington, DE 19899
(302) 984-6333
Attorneys for Defendant
Fisher Controls International, Inc.

Dated: August 9, 2002

OF COUNSEL:

RIDDELL WILLIAMS P.S.
Patrick D. McVey
Daniel J. Gunter
1001 Fourth Avenue Plaza, Suite 4500
Seattle, WA 98154-1065

SUPERIOR COURT CIVIL CASE INFORMATION STATEMENT (CIS)

COUNTY: (N) K S

Civil Case Code CDBT/CPRD

CIVIL ACTION NUMBER: 02C-045-263 JRS

CIVIL CASE TYPE: Breach of Contract/Property Damage

Caption:RONALD W. OLSON, and
CAROL OLSON, his wife,

Plaintiffs,

v.

MOTIVA ENTERPRISES L.L.C.; BATTAGLIA
MECHANICAL, INC.; FISHER CONTROLS
INTERNATIONAL, INC.; HYDROCHEM
INDUSTRIAL SERVICES, INC.; JI WHITE,
INC.; NORTHEAST CONTROLS, INC.;
PARSONS ENERGY AND CHEMICALS
GROUP, INC.; PRAXAIR, INC.; TEXACO
AVIATION PRODUCTS LLC; DAIKIN
INDUSTRIES, LTD.; SAINT-GOBAIN
PERFORMANCE PLASTICS; RIX
INDUSTRIES, INC.; TEXACO GLOBAL
GAS AND POWER; TEXACO DEVELOPMENT
CORPORATION; GARY DELGREGO,

Defendants.

NAME AND STATUS OF PARTY FILING DOCUMENTS:

Defendant, Fisher Controls International, Inc.

**DOCUMENT TYPE (E.G.: COMPLAINT; ANSWER TO
COMPLAINT)**DEFENDANT FISHER CONTROLS
INTERNATIONAL, INC.'s ANSWER TO CROSS-
CLAIMS OF DEFENDANT NORTHEAST
CONTROLS, INC.**Non-Arbitration** ☒

(Certificate of Value may be required)

Arbitration ☐ Mediation ☐ Neutral Assessment ☐**Defendant (circle one) ACCEPT REJECT****Jury Demand** Yes No**Track Assignment Requested (circle one)****EXPEDITED STANDARD (COMPLEX)****Attorney Name(s):**

Paul A. Bradley, Esquire

Attorney I.D.(s):

DE #2156

Firm Name:

McCarter & English, LLP

Firm Address:919 N. Market Street, Suite 1800
P.O. Box 111
Wilmington, DE 19899**Telephone Number:**

(302) 984-6333

Fax Number:

(302) 984-6399

E-Mail Address:

pbradley@mccarter.com

**Identify any related cases now pending in the Superior Court by
caption and civil action number including Judge's initials.**PRAXAIR v. Fisher Controls International, Inc., et al.
C.A. No. 02C-05-190 (JRS)GREAT AMERICAN ASSURANCE CO. v. Fisher
Controls International, Inc., et al.
C.A. No. 02C-05-168 (JRS)**EXPLAIN THE RELATIONSHIP(S):**

Arise from the same incident.

Other unusual issues that affect case management:

THE PROTHONOTARY WILL NOT PROCESS THE COMPLAINT, ANSWER, OR FIRST RESPONSIVE PLEADING IN THIS MATTER FOR SERVICE UNTIL THE CASE INFORMATION STATEMENT (CIS) IS FILED. THE FAILURE TO FILE THE CIS AND HAVE THE PLEADING PROCESSED FOR SERVICE MAY RESULT IN THE DISMISSAL OF THE COMPLAINT OR MAY RESULT IN THE ANSWER OR FIRST RESPONSIVE PLEADING BEING STRICKEN.

**SUPERIOR COURT CIVIL CASE INFORMATION STATEMENT (CIS)
INSTRUCTIONS**

CIVIL CASE TYPE

Please select the appropriate civil case code and case type (e.g., CODE-AADM and TYPE—Administrative Agency) from the list below. Enter this information in the designated spaces on the Case Information Statement.

APPEALS		MISCELLANEOUS	
AADM	Administrative Agency	MAAT	Appointment of Attorney
ACCP	Court of Common Pleas	MAFF	Application for Forfeiture
ACER	Certiorari	MCED	Cease and Desist Order
AFAM	Family Court	MCRO	Complaint Requesting Order
AIAB	Industrial Accident Board	MCTO	Consent Order
APSC	Public Service Commission	MIAC	Habeas Corpus
AUIB	Unemployment Insurance Appeal Board	MIND	Destruction of Indicia of Arrest
COMPLAINTS		MISS	Issuance of Subpoena/Material Witness
CAAA	Auto Arb Appeal*	MMAN	Mandamus
CASB	Asbestos	MOUT	Out of State Deposition
CATT	Foreign & Domestic Attachment	MPOS	Writ of Possession
CCCP	Transfer from CCP*	MPRO	Writ of Prohibition
CCHA	Transfer from Chancery*	MROP	Petition for Return of Property
CCON	Condemnation	MROD	Road Resolution
CDBT	Debt/Breach of Contract*	MSAM	Satisfy Mortgage
CDEF	Defamation*	MSOJ	Compel Satisfaction of Judgment
CDEJ	Declaratory Judgment	MTAX	Tax Ditches
CEJM	Ejectment*	MVAC	Vacate Public Road
CFJG	Foreign Judgment*	MSEM	Set Aside Satisfaction of Mortgage
CINT	Interpleader	MSSS	Set Aside Sheriff's Sale
CLIB	Libel*	MSEL	Sell Real Estate for Property Tax
CMAL	Malpractice*	MTOX	Hazardous Substance Cleanup
CACT	Class Action	MCVP	Civil Penalty
CPIA	Personal Injury Auto*	MREF	Tax Intercept
CPIN	Personal Injury*	MGAR	Appointment of Guardianship
CPRD	Property Damage*	MFOR	Intercept of Forfeited Money
CPLI	Products Liability*	MSET	Structured Settlement
CRPV	Replevin	MORTGAGES	
CSBI	Silicone Breast Implant	MORT	Mortgage
CTAX	Tax Appeal	MECHANICS LIENS	
CFRD	Fraud Enforcement	LIEN	Mechanics Lien*
CSPD	Summary Proceedings Dispute	OTHER	
INVOLUNTARY COMMITMENTS		OTHR	Specify Type
INVC	Involuntary Commitment		

*Case types subject to Arbitration Rule 16.1

Duty of the Plaintiff

Each plaintiff/counsel shall complete the attached Civil Case Information Statement (CIS) and file with the complaint.

Duty of the Defendant

Each defendant/counsel shall complete the attached Civil Case Information Statement (CIS) and file with the answer and/or first responsive pleading.

EXHIBIT 5

184

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

RONALD W. OLSON, and CAROL
OLSON, his wife,

Plaintiffs,

v.

MOTIVA ENTERPRISES L.L.C., et al.,

Defendants.

04

) C.A. No. 02C-05-263 (JRS)
)
) Non-Arbitration Case
)
)
) CONSOLIDATED
)
) Trial by Jury of 12 Demanded
)
)

FILED
2007 OCT 11 AM 12:18
CLERK OF COURT

**ANSWER OF DEFENDANT FISHER CONTROLS INTERNATIONAL, INC. TO
CROSS-CLAIM AGAINST ALL CO-DEFENDANTS OF DEFENDANT MOTIVA
ENTERPRISES, L.L.C.**

Defendant Fisher Controls International, Inc. ("Fisher"), by and through its undersigned attorneys, answers the Cross-claim Against All Co-Defendants asserted by defendant Motiva Enterprises, L.L.C. ("Motiva's Cross-Claim"). All allegations not specifically admitted are denied.

ANSWER TO MOTIVA'S CROSS-CLAIM

1. To the extent that Motiva's Cross-Claim sets forth allegations concerning Fisher, Fisher denies all such allegations. To the extent that Motiva's Cross-Claim contains allegations concerning other defendants, Fisher states that it is not required to respond to those allegations. To the extent that the allegations set forth in Motiva's Cross-Claim are conclusions of law, Fisher states that it is not required to respond to those allegations.

PRAYER FOR RELIEF

Having fully answered Motiva's Cross-Claim, Fisher prays for the following relief:

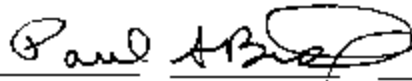
1. That the Court dismiss Motiva's Cross-Claim against Fisher with prejudice;
2. That Fisher be awarded its attorneys fees and all costs incurred, plus interest, in

connection with its defense against Motiva's Cross-Claim against Fisher;

3. That the Court award such other and further relief, general and special, legal or equitable, to which Fisher may be entitled.

Date: December 4, 2002

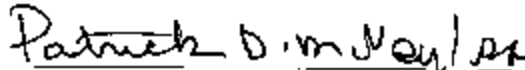
MCCARTER & ENGLISH, LLP



Paul A. Bradley
919 Market Street, Suite 1800
Wilmington, DE 19899
(302) 984 6333
Attorneys for Defendant
Fisher Controls International, Inc.

Date: December 4, 2002

RIDDELL WILLIAMS P.S.



Patrick D. McVey
1001 Fourth Avenue Plaza
Suite 4500
Seattle, WA 98415
(206) 624-3600
Attorneys for Defendant
Fisher Controls International, Inc.

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

**RONALD W. OLSON, and CAROL
OLSON, his wife,**

Plaintiffs,

v.

MOTIVA ENTERPRISES L.L.C., et al.,

Defendants.

) **C.A. No. 02C-05-263 (JRS)**
)
) **Non-Arbitration Case**
)
)
) **CONSOLIDATED**
)
) **Trial by Jury of 12 Demanded**
)
)

NOTICE OF SERVICE

I, Paul A. Bradley, Esquire, hereby certify that two true and correct copies of the attached **ANSWER OF DEFENDANT FISHER CONTROLS INTERNATIONAL, INC. TO CROSS-CLAIM AGAINST ALL CO-DEFENDANTS OF DEFENDANT MOTIVA ENTERPRISES, L.L.C.** were served this 4th day of December 2002, to the following counsel of record by delivery as noted:

Michael K. Tighe, Esq.
Tighe, Cottrell & Logan, P.A.
First Federal Plaza, Suite 500
P.O. Box 1031
Wilmington, DE 19899
FIRST CLASS MAIL

David C. Culley, Esq.
Tybout, Redfern & Pell
Suite 1110
300 Delaware Avenue
Wilmington, DE 19801
FIRST CLASS MAIL

Gregory A. Inskip, Esq.
Potter Anderson & Corroon, LLP
Hercules Plaza
P.O. Box 951
Wilmington, DE 19899
FIRST CLASS MAIL

Marc S. Casarino, Esq.
White and Williams, LLP
824 N. Market Street, Suite 902
P.O. Box 709
Wilmington, DE 19899-0709
FIRST CLASS MAIL

Roger D. Landon, Esq.
Murphy Spadaro & Landon
824 N. Market Street, Suite 700
P.O. Box 8989
Wilmington, DE 19899-8989
FIRST CLASS MAIL

Paul Lukoff, Esq.
Prickett, Jones & Elliott
1301 King Street
P.O. Box 1328
Wilmington, DE 19899
FIRST CLASS MAIL

Thomas P. Wagner, Esq.
Rawle & Henderson, LLP
The Widener Building
One South Penn Square
Philadelphia, PA 19107
FIRST CLASS MAIL

Joseph Gula, Esq.
Elzufon, Austin, Reardon, Tarlov &
Mondell, P.A.
300 Delaware Avenue, Suite 1700
P.O. Box 1630
Wilmington, DE 19899-1630
FIRST CLASS MAIL

James A. Keller, Esq.
Saul Ewing, LLP
Centre Square West
1500 Market Street, 38th Floor
Philadelphia, PA 19102
FIRST CLASS MAIL

Jennifer, Scoliarci, Esq.
Cozen & O'Connor
1201 N. Market Street
Suite 1406
Wilmington, DE 19801
FIRST CLASS MAIL

Joseph H. Riches, Esq.
Cozen & O'Connor
1900 Market Street
Philadelphia, PA 19103
FIRST CLASS MAIL

Curtis C. Staropoli, Esq.
Gollatz, Griffin & Ewing, P.C.
1700 West 14th Street
Wilmington, DE 19806-4056
FIRST CLASS MAIL

Alexander Ewing, Esq.
Gollatz, Griffin & Ewing, P.C.
213 West Miner Street
P.O. Box 796
West Chester, PA 19381-0796
FIRST CLASS MAIL

Kimberly Gattuso, Esq.
Saul Ewing, LLP
222 Delaware Avenue
P.O. Box 1266
Wilmington, DE 19899
FIRST CLASS MAIL

James F. X. Miller, Esq.
Wechsler & Cohen, LLP
116 John Street, 33rd Floor
New York, NY 10038
FIRST CLASS MAIL

Christopher Konzelman, Esq.
White and Williams, LLP
1800 One Liberty Place
Philadelphia, PA 19103-7395
FIRST CLASS MAIL

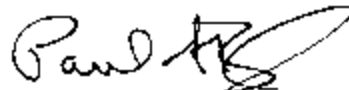
Bradford Sandler, Esq.
Adelman, Lavine, Gold & Levin
The Wilmington Trust Bldg.
Wilmington, DE 19801
FIRST CLASS MAIL

Donald M. Davis
Margolis Edelstein
The Curtis Center 4th Floor
Independence Square West
Philadelphia, PA 19106-3304
FIRST CLASS MAIL

Delia Clark, Esq.
Rawle & Henderson, LLP
One Commerce Center
1201 N. Orange Street, Suite 786
Wilmington, DE 19801
FIRST CLASS MAIL

Randall E. Robbins, Esq.
Ashby & Geddes
222 Delaware Avenue
P.O. Box 1150
Wilmington, DE 19899
FIRST CLASS MAIL

Richard K. Hohn, Esq.
Hohn & Scheverle
Eleven Penn Center
Suite 2901
Philadelphia, PA 19103
FIRST CLASS MAIL



Paul A. Bradley

EXHIBIT 6

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

RONALD W. OLSON, and CAROL
OLSON, his wife,

Plaintiffs,

v.

MOTIVA ENTERPRISES L.L.C., et al.,

Defendants.

) C.A. No. 02C-05-263 (JRS)

)

) Non-Arbitration Case

)

)

) CONSOLIDATED

)

) Trial by Jury of 12 Demanded

)

)

**ANSWER OF DEFENDANT FISHER CONTROLS INTERNATIONAL, INC. TO
NORTHEAST CONTROLS, INC.'S
CROSS-CLAIMS AGAINST FISHER INTERNATIONAL, INC.**

Defendant Fisher Controls International, Inc. ("Fisher"), by and through its undersigned attorneys, answers in correspondingly numbered paragraphs Northeast Controls, Inc.'s Cross-Claims Against Fisher International, Inc. [sic] ("Northeast Controls' Cross-Claims"). All allegations not specifically admitted are denied.

ANSWER TO NORTHEAST CONTROLS' CROSS-CLAIMS

38. Denied.

PRAYER FOR RELIEF

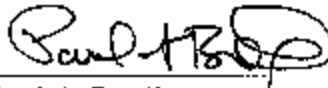
Having fully answered Northeast Controls' Cross-Claims, Fisher prays for the following relief:

1. That the Court dismiss Northeast Controls' Cross-Claims against Fisher with prejudice;
2. That Fisher be awarded its attorneys fees and all costs incurred, plus interest, in connection with its defense against Northeast Controls' Cross-Claims against Fisher;

3. That the Court award such other and further relief, general and special, legal or equitable, to which Fisher may be entitled.

Date: December 9, 2002

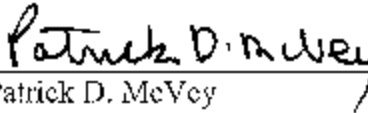
MCCARTER & ENGLISH, LLP



Paul A. Bradley
919 Market Street, Suite 1800
Wilmington, DE 19899
(302) 984-6333
Attorneys for Defendant
Fisher Controls International, Inc.

Date: December 9, 2002

RIDDELL WILLIAMS P.S.



Patrick D. McVey
1001 Fourth Avenue Plaza
Suite 4500
Seattle, WA 98415
(206) 624-3600
Attorneys for Defendant
Fisher Controls International, Inc.

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

RONALD W. OLSON, and CAROL	) C.A. No. 02C-05-263 (JRS)
OLSON, his wife,)
	) Non-Arbitration Case
Plaintiffs,)
)
v.	) CONSOLIDATED
)
MOTIVA ENTERPRISES L.L.C., et al.,	) Trial by Jury of 12 Demanded
)
Defendants.)

NOTICE OF SERVICE

I, Paul A. Bradley, Esquire, hereby certify that two true and correct copies of the attached ANSWER OF DEFENDANT FISHER CONTROLS INTERNATIONAL, INC. TO NORTHEAST CONTROLS, INC.'S CROSS-CLAIMS AGAINST FISHER INTERNATIONAL, INC. were served this 9th day of December 2002, to the following counsel of record by delivery as noted:

Michael K. Tighe, Esq.
Tighe, Cottrell & Logan, P.A.
First Federal Plaza, Suite 500
P.O. Box 1031
Wilmington, DE 19899
FIRST CLASS MAIL

David C. Culley, Esq.
Tybout, Redfearn & Pell
Suite 1110
300 Delaware Avenue
Wilmington, DE 19801
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Gregory A. Inskip, Esq.
Potter Anderson & Corroon, LLP
Hercules Plaza
P.O. Box 951
Wilmington, DE 19899
FIRST CLASS MAIL

Marc S. Casarino, Esq.
White and Williams, LLP
824 N. Market Street, Suite 902
P.O. Box 709
Wilmington, DE 19899-0709
FIRST CLASS MAIL

Roger D. Landon, Esq.
Murphy Spadaro & Landon
824 N. Market Street, Suite 700
P.O. Box 8989
Wilmington, DE 19899-8989
FIRST CLASS MAIL

Paul Lukoff, Esq.
Pickett, Jones & Elliott
1301 King Street
P.O. Box 1328
Wilmington, DE 19899
FIRST CLASS MAIL

Thomas P. Wagner, Esq.
Rawle & Henderson, LLP
The Widener Building
One South Penn Square
Philadelphia, PA 19107
FIRST CLASS MAIL

Joseph Gula, Esq.
Elzufon, Austin, Reardon, Tarlov &
Mondell, P.A.
300 Delaware Avenue, Suite 1700
P.O. Box 1630
Wilmington, DE 19899-1630
FIRST CLASS MAIL

James A. Keller, Esq.
Saul Ewing, LLP
Centre Square West
1500 Market Street, 38th Floor
Philadelphia, PA 19102
FIRST CLASS MAIL

Jennifer, Scoliard, Esq.
Cozen & O'Connor
1201 N. Market Street
Suite 1406
Wilmington, DE 19801
FIRST CLASS MAIL

Joseph H. Riches, Esq.
Cozen & O'Connor
1900 Market Street
Philadelphia, PA 19103
FIRST CLASS MAIL

Curtis C. Staropoli, Esq.
Gollatz, Griffin & Ewing, P.C.
1700 West 14th Street
Wilmington, DE 19806-4056
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Gollatz, Griffin & Ewing, P.C.
213 West Miner Street
P.O. Box 796
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Kimberly Gattuso, Esq.
Saul Ewing, LLP
222 Delaware Avenue
P.O. Box 1266
Wilmington, DE 19899
FIRST CLASS MAIL

James F. X. Hiler, Esq.
Wechsler & Cohen, LLP
116 John Street, 33rd Floor
New York, NY 10038
FIRST CLASS MAIL

Christopher Konzelman, Esq.
White and Williams, LLP
1800 One Liberty Place
Philadelphia, PA 19103-7395
FIRST CLASS MAIL

Bradford Sandler, Esq.
Adelman, Lavine, Gold & Levin
The Wilmington Trust Bldg.
Wilmington, DE 19801
FIRST CLASS MAIL

Donald M. Davis
Margolis Edelstein
The Curtis Center - 4th Floor
Independence Square West
Philadelphia, PA 19106-3304
FIRST CLASS MAIL

Delia Clark, Esq.
Rawle & Henderson, LLP
One Commerce Center
1201 N. Orange Street, Suite 786
Wilmington, DE 19801
FIRST CLASS MAIL

Randall H. Robbins, Esq.
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222 Delaware Avenue
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Suite 2901
Philadelphia, PA 19103
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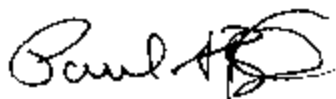

Paul A. Bradley

EXHIBIT 7

194

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

RONALD W. OLSON, and CAROL
OLSON, his wife,

Plaintiffs,

v.

MOTIVA ENTERPRISES L.L.C., et al.,

Defendants.

) C.A. No. 02C-05-263 (JRS)
)
) Non-Arbitration Case
)
)
) CONSOLIDATED
)
) Trial by Jury of 12 Demanded
)
)

**ANSWER OF DEFENDANT FISHER CONTROLS INTERNATIONAL, INC. TO
CROSS-CLAIM AGAINST ALL CO-DEFENDANTS OF
DEFENDANT MOTIVA ENTERPRISES, L.L.C.**

Defendant Fisher Controls International, Inc. ("Fisher"), by and through its undersigned attorneys, answers the Cross-claim Against All Co-Defendants asserted by defendant Motiva Enterprises, L.L.C. ("Motiva's Cross-Claim"). All allegations not specifically admitted are denied.

ANSWER TO MOTIVA'S CROSS-CLAIM

1. To the extent that Motiva's Cross-Claim sets forth allegations concerning Fisher, Fisher denies all such allegations. To the extent that Motiva's Cross-Claim contains allegations concerning other defendants, Fisher states that it is not required to respond to those allegations. To the extent that the allegations set forth in Motiva's Cross-Claim are conclusions of law, Fisher states that it is not required to respond to those allegations.

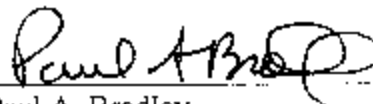
PRAYER FOR RELIEF

Having fully answered Motiva's Cross-Claim, Fisher prays for the following relief:

1. That the Court dismiss Motiva's Cross-Claim against Fisher with prejudice;
2. That Fisher be awarded its attorneys fees and all costs incurred, plus interest, in connection with its defense against Battaglia's Cross-Claim against Fisher;
3. That the Court award such other and further relief, general and special, legal or equitable, to which Fisher may be entitled.

Date: December 9, 2002

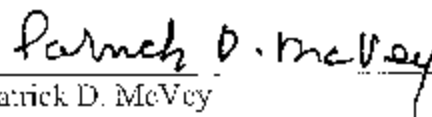
MCCARTER & ENGLISH, LLP



Paul A. Bradley
919 Market Street, Suite 1800
Wilmington, DE 19899
(302) 984-6333
Attorneys for Defendant
Fisher Controls International, Inc.

Date: December 9, 2002

RIDDELL WILLIAMS P.S.



Patrick D. McVey
1001 Fourth Avenue Plaza
Suite 4500
Seattle, WA 98415
(206) 624-3600
Attorneys for Defendant
Fisher Controls International, Inc.

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

RONALD W. OLSON, and CAROL OLSON, his wife,	)	C.A. No. 02C-05-263 (JRS)
)	
Plaintiffs,	)	Non-Arbitration Case
)	
v.	)	CONSOLIDATED
)	
MOTIVA ENTERPRISES L.L.C., et al.,	)	Trial by Jury of 12 Demanded
)	
Defendants.)	

NOTICE OF SERVICE

I, Paul A. Bradley, Esquire, hereby certify that two true and correct copies of the attached ANSWER OF DEFENDANT FISHER CONTROLS INTERNATIONAL, INC. TO CROSS-CLAIM AGAINST ALL CO-DEFENDANTS OF DEFENDANT MOTIVA ENTERPRISES, L.L.C., were served this 9th day of December 2002, to the following counsel of record by delivery as noted:

Michael K. Tighe, Esq.
Tighe, Cottrell & Logan, P.A.
First Federal Plaza, Suite 500
P.O. Box 1031
Wilmington, DE 19899
FIRST CLASS MAIL

David C. Culley, Esq.
Tybout, Redfearn & Pell
Suite 1110
300 Delaware Avenue
Wilmington, DE 19801
FIRST CLASS MAIL

Gregory A. Inskip, Esq.
Potter Anderson & Corroon, LLP
Hercules Plaza
P.O. Box 951
Wilmington, DE 19899
FIRST CLASS MAIL

Marc S. Casarino, Esq.
White and Williams, LLP
824 N. Market Street, Suite 902
P.O. Box 709
Wilmington, DE 19899-0709
FIRST CLASS MAIL

Roger D. Landon, Esq.
Murphy Spadaro & Landon
824 N. Market Street, Suite 700
P.O. Box 8989
Wilmington, DE 19899-8989
FIRST CLASS MAIL

Paul Lukoff, Esq.
Prickett, Jones & Elliott
1301 King Street
P.O. Box 1328
Wilmington, DE 19899
FIRST CLASS MAIL

Thomas P. Wagner, Esq.
Rawle & Henderson, LLP
The Widener Building
One South Penn Square
Philadelphia, PA 19107
FIRST CLASS MAIL

Joseph Gula, Esq.
Elzufon, Austin, Reardon, Tarlov &
Mondell, P.A.
300 Delaware Avenue, Suite 1700
P.O. Box 1630
Wilmington, DE 19899-1630
FIRST CLASS MAIL

James A. Keller, Esq.
Saul Ewing, LLP
Centre Square West
1500 Market Street, 38th Floor
Philadelphia, PA 19102
FIRST CLASS MAIL

James F. X. Hiler, Esq.
Wechsler & Cohen, LLP
116 John Street, 33rd Floor
New York, NY 10038
FIRST CLASS MAIL

Jennifer Scoliard, Esq.
Cozen & O'Connor
1201 N. Market Street
Suite 1406
Wilmington, DE 19801
FIRST CLASS MAIL

Joseph H. Riches, Esq.
Cozen & O'Connor
1900 Market Street
Philadelphia, PA 19103
FIRST CLASS MAIL

Curtis C. Staropoli, Esq.
Gollatz, Griffin & Ewing, P.C.
1700 West 14th Street
Wilmington, DE 19806-4056
FIRST CLASS MAIL

Alexander Ewing, Esq.
Gollatz, Griffin & Ewing, P.C.
213 West Minor Street
P.O. Box 796
West Chester, PA 19381-0796
FIRST CLASS MAIL

Kimberly Gattuso, Esq.
Saul Ewing, LLP
222 Delaware Avenue
P.O. Box 1266
Wilmington, DE 19899
FIRST CLASS MAIL

Christopher Konzelman, Esq.
White and Williams, LLP
1800 One Liberty Place
Philadelphia, PA 19103-7395
FIRST CLASS MAIL

Bradford Sandler, Esq.
Adelman, Lavine, Gold & Levin
The Wilmington Trust Bldg.
Wilmington, DE 19801
FIRST CLASS MAIL

Delia Clark, Esq.
Rawls & Henderson, LLP
One Commerce Center
1201 N. Orange Street, Suite 786
Wilmington, DE 19801
FIRST CLASS MAIL

Donald M. Davis
Margolis Edelstein
The Curtis Center – 4th Floor
Independence Square West
Philadelphia, PA 19106-3304
FIRST CLASS MAIL

Randall E. Robbins, Esq.
Ashby & Geddes
222 Delaware Avenue
P.O. Box 1150
Wilmington, DE 19899
FIRST CLASS MAIL

Richard K. Hohn, Esq.
Hohn & Scheverle
Eleven Penn Center
Suite 2901
Philadelphia, PA 19103
FIRST CLASS MAIL

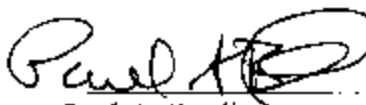

Paul A. Bradley

EXHIBIT 8

196
FILED
2007 DEC -3 PM 4:22

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

RONALD W. OLSON, and CAROL) C.A. No. 02C-05-263 (JRS)
OLSON, his wife,)
) Non-Arbitration Case
Plaintiffs,)
)
v.) **CONSOLIDATED**
)
MOTIVA ENTERPRISES L.L.C., et al.,) Trial by Jury of 12 Demanded
)
Defendants.)

**ANSWER OF DEFENDANT FISHER CONTROLS INTERNATIONAL, INC. TO
NORTHEAST CONTROLS, INC.'S CROSS-CLAIMS
AGAINST ALL CO-DEFENDANTS**

Defendant Fisher Controls International, Inc. ("Fisher"), by and through its undersigned attorneys, answers in correspondingly numbered paragraphs the Cross-claims Against All Co-Defendants asserted by defendant Northeast Controls, Inc. ("Northeast Controls' Cross-Claim"). All allegations not specifically admitted are denied.

ANSWER TO NORTHEAST CONTROLS' CROSS-CLAIM

24. To the extent that Northeast Controls' Cross-Claim sets forth allegations concerning Fisher, Fisher denies all such allegations. To the extent that Northeast Controls' Cross-Claim contains allegations concerning other defendants or third-party defendants, Fisher states that it is not required to respond to those allegations. To the extent that the allegations set forth in Northeast Controls' Cross-Claim are conclusions of law, Fisher states that it is not required to respond to those allegations.

PRAYER FOR RELIEF

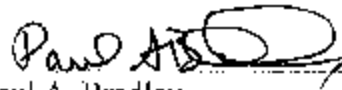
Having fully answered Northeast Controls' Cross-Claim, Fisher prays for the following

relief:

1. That the Court dismiss Northeast Controls' Cross-Claim against Fisher with prejudice;
2. That Fisher be awarded its attorneys fees and all costs incurred, plus interest, in connection with its defense against Northeast Controls' Cross-Claim against Fisher;
3. That the Court award such other and further relief, general and special, legal or equitable, to which Fisher may be entitled.

Date: December 9, 2002

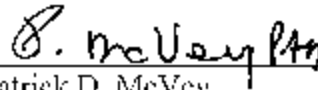
MCCARTER & ENGLISH, LLP



Paul A. Bradley
919 Market Street, Suite 1800
Wilmington, DE 19899
(302) 984-6333
Attorneys for Defendant
Fisher Controls International, Inc.

Date: December 9, 2002

RIDDELL WILLIAMS P.S.



Patrick D. McVey
1001 Fourth Avenue Plaza
Suite 4500
Seattle, WA 98415
(206) 624-3600
Attorneys for Defendant
Fisher Controls International, Inc.

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

RONALD W. OLSON, and CAROL OLSON, his wife,	)	C.A. No. 02C-05-263 (IRS)
)	
Plaintiffs,	)	Non-Arbitration Case
)	
v.	)	CONSOLIDATED
)	
MOTIVA ENTERPRISES L.L.C., et al.,	)	Trial by Jury of 12 Demanded
)	
Defendants.)	

NOTICE OF SERVICE

I, Paul A. Bradley, Esquire, hereby certify that two true and correct copies of the attached
**ANSWER OF DEFENDANT FISHER CONTROLS INTERNATIONAL, INC. TO
NORTHEAST CONTROLS, INC.'S CROSS-CLAIMS AGAINST ALL CO-DEFENDANTS**
were served this 9th day of December 2002, to the following counsel of record by delivery as
noted:

Michael K. Tighe, Esq.
Tighe, Cottrell & Logan, P.A.
First Federal Plaza, Suite 500
P.O. Box 1031
Wilmington, DE 19899
FIRST CLASS MAIL

David C. Culley, Esq.
Tybout, Redfeam & Pell
Suite 1110
300 Delaware Avenue
Wilmington, DE 19801
FIRST CLASS MAIL

Gregory A. Inskip, Esq.
Potter Anderson & Corroon, LLP
Hercules Plaza
P.O. Box 951
Wilmington, DE 19899
FIRST CLASS MAIL

Marc S. Casarino, Esq.
White and Williams, LLP
824 N. Market Street, Suite 902
P.O. Box 709
Wilmington, DE 19899-0709
FIRST CLASS MAIL

Roger D. Landon, Esq.
Murphy Spadaro & Landon
824 N. Market Street, Suite 700
P.O. Box 8989
Wilmington, DE 19899-8989
FIRST CLASS MAIL

Paul Lukoff, Esq.
Prickett, Jones & Elliott
1301 King Street
P.O. Box 1328
Wilmington, DE 19899
FIRST CLASS MAIL

Thomas P. Wagner, Esq.
Rawle & Henderson, LLP
The Widener Building
One South Penn Square
Philadelphia, PA 19107
FIRST CLASS MAIL

Joseph Gula, Esq.
Elzufon, Austin, Rcardon, Tarlov &
Mondell, P.A.
300 Delaware Avenue, Suite 1700
P.O. Box 1630
Wilmington, DE 19899-1630
FIRST CLASS MAIL

James A. Keller, Esq.
Saul Ewing, LLP
Centre Square West
1500 Market Street, 38th Floor
Philadelphia, PA 19102
FIRST CLASS MAIL

Jennifer, Scoliard, Esq.
Cozen & O'Connor
1201 N. Market Street
Suite 1406
Wilmington, DE 19801
FIRST CLASS MAIL

Joseph H. Riches, Esq.
Cozen & O'Connor
1900 Market Street
Philadelphia, PA 19103
FIRST CLASS MAIL

Curtis C. Staropoli, Esq.
Gollatz, Griffin & Ewing, P.C.
1700 West 14th Street
Wilmington, DE 19806-4056
FIRST CLASS MAIL

Alexander Ewing, Esq.
Gollatz, Griffin & Ewing, P.C.
213 West Miner Street
P.O. Box 796
West Chester, PA 19381 0796
FIRST CLASS MAIL

Kimberly Gattuso, Esq.
Saul Ewing, LLP
222 Delaware Avenue
P.O. Box 1266
Wilmington, DE 19899
FIRST CLASS MAIL

James F. X. Hiler, Esq.
Wechsler & Cohen, LLP
116 John Street, 33rd Floor
New York, NY 10038
FIRST CLASS MAIL

Christopher Konzelman, Esq.
White and Williams, LLP
1800 One Liberty Place
Philadelphia, PA 19103-7395
FIRST CLASS MAIL

Bradford Sandler, Esq.
Adelman, Lavine, Gold & Levin
The Wilmington Trust Bldg.
Wilmington, DE 19801
FIRST CLASS MAIL

Donald M. Davis
Margolis Edelstein
The Curtis Center -- 4th Floor
Independence Square West
Philadelphia, PA 19106-3304
FIRST CLASS MAIL

Delia Clark, Esq.
Rawle & Henderson, LLP
One Commerce Center
1201 N. Orange Street, Suite 786
Wilmington, DE 19801
FIRST CLASS MAIL

Randall E. Robbins, Esq.
Ashby & Goddes
222 Delaware Avenue
P.O. Box 1150
Wilmington, DE 19899
FIRST CLASS MAIL

Richard K. Hohn, Esq.
Hohn & Scheverle
Eleven Penn Center
Suite 2901
Philadelphia, PA 19103
FIRST CLASS MAIL



Paul A. Bradley

EXHIBIT 9

284

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IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

2009 MAR 19 PM 4:36

RONALD W. OLSON and
CAROL OLSON, his wife,

Plaintiffs,

v.

MOTIVA ENTERPRISES, L.L.C., et al.,

Defendants.

) C.A. No. 02C-04-263 (JRS)

)

) Non-Arbitration Case

)

) Consolidated with:

) C.A. No. 02C-05-168 (JRS)

) C.A. No. 02C-05-169 (JRS)

) C.A. No. 02C-05-190 (JRS)

)

**DEFENDANT FISHER CONTROLS INTERNATIONAL, INC.'S ANSWER TO
CROSS-CLAIMS AGAINST FISHER INTERNATIONAL, INC.
ASSERTED BY NORTHEAST CONTROLS, INC.
(IN THE PRAXAIR CASE)**

Defendant Fisher Controls International, Inc. ("Fisher"), by and through its undersigned attorneys, answers in correspondingly numbered paragraphs the cross-claims asserted by Northeast Controls, Inc. ("Northeast's Cross-Claims"). All allegations not specifically admitted are denied.

**ANSWER TO NORTHEAST'S CROSS-CLAIMS AGAINST
FISHER INTERNATIONAL, INC.**

50. Denied.

**ANSWER TO NORTHEAST'S CROSS-CLAIMS AGAINST
CONNECTIV OPERATING SERVICES COMPANY, TEXACO DEVELOPMENT
CORP. AND GARY DELGREGO**

52. Paragraph 52 of Northeast's Cross-Claims sets forth allegations concerning other defendants or third-party defendants. Fisher Controls is not required to respond.

PRAYER FOR RELIEF

Having fully answered Northeast's Cross-Claims, Fisher prays for the following relief:

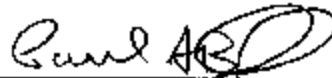
1. That the Court dismiss Northeast's Cross-Claims against Fisher with prejudice;

2. That Fisher be awarded its attorneys fees and all costs incurred, plus interest, in connection with its defense against Northeast's Cross-Claims against Fisher;

3. That the Court award such other and further relief, general and special, legal or equitable, to which Fisher may be entitled.

Date: March 19, 2003

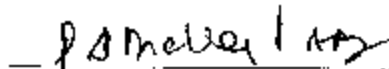
MCCARTER & ENGLISH, LLP



Paul A Bradley (DE Bar ID #2156)
McCARTER & ENGLISH
919 Market Street, Suite 1800
Wilmington, DE 19899
(302) 984-6333
Attorneys for Defendant
Fisher Controls International, Inc.

Date: March 19, 2003

RIDDELL WILLIAMS P.S.



Patrick D. McVey
1001 Fourth Avenue Plaza
Suite 4500
Seattle, WA 98415
(206) 624-3600
Attorneys for Defendant
Fisher Controls International, Inc.

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

RONALD W. OLSON, and CAROL	) C.A. No. 02C-04-263 (JRS)
OLSON, his wife,)
	) Non-Arbitration Case
Plaintiffs,)
)
v.	) CONSOLIDATED
)
MOTIVA ENTERPRISES L.L.C., et al.,	) Trial by Jury of 12 Demanded
)
Defendants.)

NOTICE OF SERVICE

I, Paul A. Bradley, Esquire, hereby certify that one true and correct copy of the attached **DEFENDANT FISHER CONTROLS INTERNATIONAL, INC.'S ANSWER TO CROSSCLAIM ASSERTED AGAINST FISHER INTERNATIONAL, INC. ASSERTED BY NORTHEAST CONTROLS, INC. (IN THE PRAXAIR CASE)** was served this 19th day of March, 2003, to the following counsel of record by first class mail, postage prepaid.

Michael K. Tighe, Esq.
Tighe, Cottrell & Logan, P.A.
First Federal Plaza, Suite 500
P.O. Box 1031
Wilmington, DE 19899

Gregory A. Inskip, Esq.
Potter Anderson & Corroon, LLP
Hercules Plaza
P.O. Box 951
Wilmington, DE 19899

David C. Culley, Esq.
Tybout, Redfearn & Pell
Suite 1110
300 Delaware Avenue
Wilmington, DE 19801

Marc S. Casarino, Esq.
White and Williams, LLP
824 N. Market Street, Suite 902
P.O. Box 709
Wilmington, DE 19899-0709

Roger D. Landon, Esq.
Murphy Spadaro & Landon
824 N. Market Street, Suite 700
P.O. Box 8989
Wilmington, DE 19899-8989

Paul Lukoff, Esq.
Prickett, Jones & Elliott
1301 King Street
P.O. Box 1328
Wilmington, DE 19899

Thomas P. Wagner, Esq.
Rawle & Henderson, LLP
The Widener Building
One South Penn Square
Philadelphia, PA 19107

Joseph Gula, Esq.
Elzefon, Austin, Reardon, Tarlov &
Mondell, P.A.
300 Delaware Avenue, Suite 1700
P.O. Box 1630
Wilmington, DE 19899-1630

James A. Keller, Esq.
Saul Ewing, LLP
Centre Square West
1500 Market Street, 38th Floor
Philadelphia, PA 19102

Jennifer, Scoliard, Esq.
Cozen & O'Connor
1201 N. Market Street
Suite 1406
Wilmington, DE 19801

Joseph H. Riches, Esq.
F. Warren Jacoby, Esq.
Cozen & O'Connor
1900 Market Street
Philadelphia, PA 19103

Curtis C. Staropoli, Esq.
Gollatz, Griffin & Ewing, P.C.
1700 West 14th Street
Wilmington, DE 19806-4056

Alexander Ewing, Esq.
Gollatz, Griffin & Ewing, P.C.
213 West Miner Street
P.O. Box 796
West Chester, PA 19381-0796

Kimberly Gattuso, Esq.
Saul Ewing, LLP
222 Delaware Avenue
P.O. Box 1266
Wilmington, DE 19899

James F. X. Hiler, Esq.
Wechsler & Cohen, LLP
116 John Street, 33rd Floor
New York, NY 10038

Christopher Konzelman, Esq.
White and Williams, LLP
1800 One Liberty Place
Philadelphia, PA 19103-7395

Bradford Sandler, Esq.
Adelman, Lavine, Gold & Levin
The Wilmington Trust Bldg.
Wilmington, DE 19801

Donald M. Davis
Margolis Edelstein
The Curtis Center – 4th Floor
Independence Square West
Philadelphia, PA 19106-3304

Delia Clark, Esq.
Rawle & Henderson, LLP
One Commerce Center
1201 N. Orange Street, Suite 786
Wilmington, DE 19801

Randall E. Robbins, Esq.
Joseph Handlon, Esq.
Ashby & Geddes
222 Delaware Avenue
P.O. Box 1150
Wilmington, DE 19899

Richard K. Hohn, Esq.
Hohn & Scheuerle
Eleven Penn Center
Suite 2901
Philadelphia, PA 19103



Paul A. Bradley

EXHIBIT 10

332

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

2003 JUL 11 PM 2:34

RONALD W. OLSON and	) C.A. No. 02C-04-263 (JRS)
CAROL OLSON, his wife	) Non-Arbitration Case
)
Plaintiffs,)
v.	) Consolidated with:
)
MOTIVA ENTERPRISES, L.L.C., et al.	) C.A. No. 02C-05-169 (JRS)
	) C.A. No. 02C-05-190 (JRS)
Defendants.	) C.A. No. 02C-05-168 (JRS)
)

**ANSWER OF DEFENDANT FISHER CONTROLS INTERNATIONAL, INC.
TO ANY AND ALL CROSS-CLAIMS AND FUTURE CROSS-CLAIMS
(IN THE MOTIVA CASE)**

Defendant Fisher Controls International, Inc. ("Fisher"), by and through its undersigned attorneys, hereby responds to any and all cross-claims and future cross-claims. All allegations not specifically admitted are denied.

ANSWERS TO ANY AND ALL CROSS-CLAIMS AND FUTURE CROSS-CLAIMS

1. To the extent that any cross-claim sets forth allegations concerning Fisher, Fisher denies all such allegations. To the extent that any cross-claim contains allegations concerning other defendants or third-party defendants, Fisher states that it is not required to respond to those allegations. To the extent that the allegations set forth in any cross-claim are conclusions of law, Fisher states that it is not required to respond to those allegations.

PRAYER FOR RELIEF

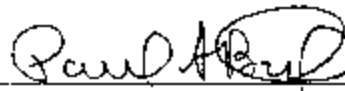
Having fully responded to all cross-claims, Defendant Fisher prays for the following relief:

1. That the Court dismiss any and all cross-claims against Fisher with prejudice;
2. That Fisher be awarded its attorneys' fees and all costs incurred, plus interest, in

connection with its defense against any and all cross-claims against Fisher;

3. That the Court award such other and further relief, general and special, legal or equitable, to which Fisher may be entitled.

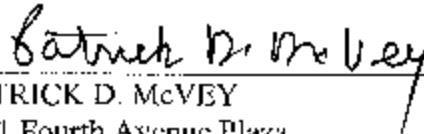
MCCARTER & ENGLISH, LLP



PAUL A. BRADLEY
919 Market Street, Suite 1800
Wilmington, DE 19899
(302) 984-6300
Attorneys for Defendant
Fisher Controls International, Inc.

Date: July 10, 2003

RIDDELL WILLIAMS P.S.



PATRICK D. McVEY
1001 Fourth Avenue Plaza
Suite 4500
Seattle, WA 98415
(206) 624-3600
Attorneys for Defendant
Fisher Controls International, Inc.

Date: July 10, 2003

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

RONALD W. OLSON and)
CAROL OLSON, his wife) C.A. No. 02C-04-263 (JRS)
)
Plaintiffs,) Non-Arbitration Case
v.)
) Consolidated with:
MOIIVA ENTERPRISES, L.L.C., et al.) C.A. No. 02C-05-168 (JRS)
) C.A. No. 02C-05-169 (JRS)
Defendants.) C.A. No. 02C-05-190 (JRS)
)

NOTICE OF SERVICE

I, Paul A. Bradley, Esquire, hereby certify that one true and correct copy of **ANSWER OF DEFENDANT FISHER CONTROLS INTERNATIONAL, INC. TO ANY AND ALL CROSS-CLAIMS AND FUTURE CROSS-CLAIMS (IN THE MOIIVA CASE)** was served this 11th day of July, 2003, to the following counsel of record by first class mail, postage prepaid.

Michael K. Tighe, Esq.
Tighe, Cottrell & Logan, P.A.
First Federal Plaza, Suite 500
P.O. Box 1031
Wilmington, DE 19899

Marc S. Casarino, Esq.
White and Williams, LLP
824 N. Market Street, Suite 902
P.O. Box 709
Wilmington, DE 19899-0709

Gregory A. Inskip, Esq.
Potter Anderson & Corroon, LLP
Hercules Plaza
P.O. Box 951
Wilmington, DE 19899

Roger D. Landon, Esq.
Murphy Spadaro & Landon
824 N. Market Street, Suite 700
P.O. Box 8989
Wilmington, DE 19899-8989

David C. Culley, Esq.
Tybout, Redfearn & Pell
Suite 1110
300 Delaware Avenue
Wilmington, DE 19801

Paul Lukoff, Esq.
Prickett, Jones & Elliott
1301 King Street
P.O. Box 1328
Wilmington, DE 19899

P. Wagner, Esq.
Rawle & Henderson, LLP
The Widener Building
One South Penn Square
Philadelphia, PA 19107

Joseph Guia, Esq.
Elzufon, Austin, Reardon, Tarlov &
Mondell, P.A.
300 Delaware Avenue, Suite 1700
P.O. Box 1630
Wilmington, DE 19899-1630

James A. Keller, Esq.
Saul Ewing, LLP
Centre Square West
1500 Market Street, 38th Floor
Philadelphia, PA 19102

Sean J. Bellew, Esq.
Cozen & O'Connor
1201 N. Market Street
Suite 1406
Wilmington, DE 19801

Joseph H. Riches, Esq.
F. Warren Jacoby, Esq.
Cozen & O'Connor
1900 Market Street
Philadelphia, PA 19103

Curtis C. Staropoli, Esq.
Gollatz, Griffin & Ewing, P.C.
1700 West 14th Street
Wilmington, DE 19806-4056

Alexander Ewing, Esq.
Gollatz, Griffin & Ewing, P.C.
213 West Miner Street
P.O. Box 796
West Chester, PA 19381-0796

Kimberly Gattuso, Esq.
Saul Ewing, LLP
222 Delaware Avenue
P.O. Box 1266
Wilmington, DE 19899

James F. X. Hiler, Esq.
Wechsler & Cohen, LLP
116 John Street, 33rd Floor
New York, NY 10038

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1800 One Liberty Place
Philadelphia, PA 19103-7395

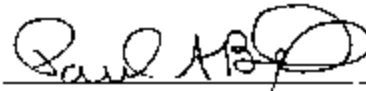
Bradford Sandler, Esq.
Adelman, Lavine, Gold & Levin
The Wilmington Trust Bldg.
Wilmington, DE 19801

Donald M. Davis, Esq.
Margolis Edelstein
The Curtis Center – 4th Floor
Independence Square West
Philadelphia, PA 19106-3304

Delia Clark, Esq.
Rawle & Henderson, LLP
One Commerce Center
1201 N. Orange Street, Suite 786
Wilmington, DE 19801

Randall E. Robbins, Esq.
Joseph Handlon, Esq.
Ashby & Geddes
222 Delaware Avenue
P.O. Box 1150
Wilmington, DE 19899

Richard K. Hohn, Esq.
Hohn & Scheuerle
Eleven Penn Center
Suite 2901
Philadelphia, PA 19103

A handwritten signature in black ink, appearing to read "Paul A. Bradley", written over a horizontal line.

PAUL A. BRADLEY
DE Bar ID 2156

EXHIBIT 11

328

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

RONALD W. OLSON and
CAROL OLSON, his wife

Plaintiffs,

v.

MOTIVA ENTERPRISES, L.L.C., et al.

Defendants.

) C.A. No. 02C-04-263 (JRS)

) Non-Arbitration Case

)

)

) Consolidated with:

)

) C.A. No. 02C-05-169 (JRS)

) C.A. No. 02C-05-190 (JRS)

) C.A. No. 02C-05-168 (JRS)

)

ANSWER OF DEFENDANT**FISHER CONTROLS INTERNATIONAL, INC. TO ANY AND ALL
CROSS-CLAIMS AND FUTURE CROSS-CLAIMS (IN THE PRAXAIR CASE)**

Defendant Fisher Controls International, Inc. ("Fisher"), by and through its undersigned attorneys, hereby responds to any and all cross-claims and future cross-claims. All allegations not specifically admitted are denied.

ANSWERS TO ANY AND ALL CROSS-CLAIMS AND FUTURE CROSS-CLAIMS

1. To the extent that any cross-claim sets forth allegations concerning Fisher, Fisher denies all such allegations. To the extent that any cross-claim contains allegations concerning other defendants or third-party defendants, Fisher states that it is not required to respond to those allegations. To the extent that the allegations set forth in any cross-claim are conclusions of law, Fisher states that it is not required to respond to those allegations.

PRAYER FOR RELIEF

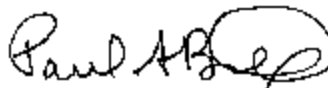
Having fully responded to all cross-claims, Defendant Fisher prays for the following relief:

1. That the Court dismiss any and all cross-claims against Fisher with prejudice;
2. That Fisher be awarded its attorneys' fees and all costs incurred, plus interest, in

connection with its defense against any and all cross-claims against Fisher;

3. That the Court award such other and further relief, general and special, legal or equitable, to which Fisher may be entitled.

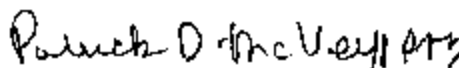
MCCARTER & ENGLISH, LLP



PAUL A. BRADLEY
919 Market Street, Suite 1800
P. O. Box 111
Wilmington, DE 19899
(302) 984-6300
Attorneys for Defendant
Fisher Controls International, Inc.

Date: July 14, 2003

RIDDELL WILLIAMS P.S.



PATRICK D. McVEY
1001 Fourth Avenue Plaza
Suite 4500
Seattle, WA 98415
(206) 624-3600
Attorneys for Defendant
Fisher Controls International, Inc.

Date: July 14, 2003

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

RONALD W. OLSON and)	
CAROL OLSON, his wife	)	C.A. No. 02C-04-263 (JRS)
)	
Plaintiffs,	)	Non-Arbitration Case
v.)	
	)	Consolidated with:
MOTIVA ENTERPRISES, L.L.C., et al.	)	C.A. No. 02C-05-168 (JRS)
	)	C.A. No. 02C-05-169 (JRS)
Defendants.	)	C.A. No. 02C-05-190 (JRS)
)	

NOTICE OF SERVICE

I, Paul A. Bradley, Esquire, hereby certify that one true and correct copy of **ANSWER OF DEFENDANT FISHER CONTROLS INTERNATIONAL, INC. TO ANY AND ALL CROSS-CLAIMS AND FUTURE CROSS-CLAIMS (IN THE PRAXAIR CASE)** was served this 14th day of July, 2003, to the following counsel of record by first class mail, postage prepaid.

Michael K. Tighe, Esq.
Tighe, Cottrill & Logan, P.A.
First Federal Plaza, Suite 500
P.O. Box 1031
Wilmington, DE 19899

Marc S. Casarino, Esq.
White and Williams, LLP
824 N. Market Street, Suite 902
P.O. Box 709
Wilmington, DE 19899-0709

Gregory A. Inskip, Esq.
Potter Anderson & Corroon, LLP
Hercules Plaza
P.O. Box 951
Wilmington, DE 19899

Roger D. Landon, Esq.
Murphy Spadaro & Landon
824 N. Market Street, Suite 700
P.O. Box 8989
Wilmington, DE 19899-8989

David C. Culley, Esq.
Tybout, Redfearn & Pell
Suite 1110
300 Delaware Avenue
Wilmington, DE 19801

Paul Lukoff, Esq.
Prickett, Jones & Elliott
1301 King Street
P.O. Box 1328
Wilmington, DE 19899

P. Wagner, Esq.
Rawle & Henderson, LLP
The Widener Building
One South Penn Square
Philadelphia, PA 19107

Joseph Gula, Esq.
Elzufon, Austin, Reardon, Tarlov &
Mondell, P.A.
300 Delaware Avenue, Suite 1700
P.O. Box 1630
Wilmington, DE 19899-1630

James A. Keller, Esq.
Saul Ewing, LLP
Centre Square West
1500 Market Street, 38th Floor
Philadelphia, PA 19102

Sean J. Bellew, Esq.
Cozen & O'Connor
1201 N. Market Street
Suite 1406
Wilmington, DE 19801

Joseph H. Riches, Esq.
F. Warren Jacoby, Esq.
Cozen & O'Connor
1900 Market Street
Philadelphia, PA 19103

Curtis C. Staropoli, Esq.
Gollatz, Griffin & Ewing, P.C.
1700 West 14th Street
Wilmington, DE 19806-4056

Alexander Ewing, Esq.
Gollatz, Griffin & Ewing, P.C.
213 West Miner Street
P.O. Box 796
West Chester, PA 19381-0796

Kimberly Gattuso, Esq.
Saul Ewing, LLP
222 Delaware Avenue
P.O. Box 1266
Wilmington, DE 19899

James F. X. Hiler, Esq.
Wechsler & Cohen, LLP
116 John Street, 33rd Floor
New York, NY 10038

Christopher Konzelman, Esq.
White and Williams, LLP
1800 One Liberty Place
Philadelphia, PA 19103-7395

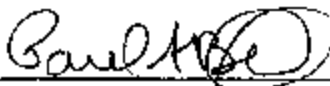
Bradford Sandler, Esq.
Adelman, Lavine, Gold & Levin
The Wilmington Trust Bldg.
Wilmington, DE 19801

Donald M. Davis, Esq.
Margolis Edelstein
The Curtis Center – 4th Floor
Independence Square West
Philadelphia, PA 19106-3304

Delia Clark, Esq.
Rawle & Henderson, LLP
One Commerce Center
1201 N. Orange Street, Suite 786
Wilmington, DE 19801

Randall F. Robbins, Esq.
Joseph Handlon, Esq.
Ashby & Geddes
222 Delaware Avenue
P.O. Box 1150
Wilmington, DE 19899

Richard K. Hohn, Esq.
Hohn & Scheuerle
Eleven Penn Center
Suite 2901
Philadelphia, PA 19103



PAUL A. BRADLEY
DE Bar ID 2156

EXHIBIT 12

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 1

02C-04-263

FILED April 24, 2002

JUDGE: JRS

STATUS: CLO E-FILED: YES

PERSONAL INJURY

ARBITRATION:

JURY TRIAL

ROBBINS RANDALL E.
ROBBINS RANDALL E.RONALD W. OLSON, ET UX
CAROL OLSON

-- VS --

LUKOFF PAUL M.

MOTIVA ENTERPRISES, L.L.P.;
BATTAGLIA MECHANICAL, INC.;
FISHER CONTROLS INTERNATIONAL,
INC.;
HYDROCHEM INDUSTRIAL SERVICES,
INC.;
JJ WHITE, INC.;

CLARK DELIA ANN

NORTHEAST CONTROLS, INC.
PARSONS ENERGY AND CHEMICALS
GROUP, INC.;

SCOLIARD JENNIFER L.

PRAXAIR, INC.;
TEXACO AVIATION PRODUCTS LLC,
DAIKIN INDUSTRIES, LTD.;
SAINT-GOBAIN PERFORMANCE
PLASTICS;

ABER GARY W.

RIX INDUSTRIES, INC.; DISMISSED SEE #485
TEXACO DEVELOPMENT
CORPORATION;
TEXACO, INC.

ABER GARY W.

-- VS --

SCOLIARD JENNIFER L.

CONNECTIV OPERATING SYSTEMS
THIRD-PARTY DEFENDANT

04/24/2002	1	INITIAL COMPLAINT - PERSONAL INJURY CERTIFICATE OF VALUE, FORM 30 INTERROGATORIES, RULE 3(h) RANDALL, ROBBINS, ESQ. _____ KDC
04/30/2002	2	PLAINTIFF'S MOTION TO EXPEDITED DISCOVERY IS TO BE HEARD BY THE COURT BY TELECONFERENCE AT 2:30 P.M. ON 05/06/02. NR
04/30/2002	3	NOTICE OF SERVICE OF PLAINTIFF'S FIRST SET OF INTERROGATORIES DIRECTED TO DEFENDANTS MOTIVA ENTERPRISES LLC, FISHER CONTROLS INTERNATIONAL, INC., PARSONS ENERGY AND CHEMICALS GROUP, INC., AND PRAXAIR, INC. NR
04/30/2002	4	NOTICE OF SERVICE OF PLAINTIFFS' FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANTS MOTIVA ENTERPRISES LLC, FISHER CONTROLS INTERNATIONAL, INC., PARSONS ENERGY AND CHEMICALS GROUP, INC., AND PRAXAIR, INC. NR
05/01/2002		SUMMONS SENT TO SHERIFF FOR SERVICE ON MOTIVA ENTERPRISES L.L.P. ON 05/01/02. NR
05/01/2002		SUMMONS SENT TO SHERIFF FOR SERVICE ON

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 2

02C-04-263		BATTAGLIA MECHANICAL, INC. ON 05/01/02.	NR
05/01/2002		SUMMONS SENT TO SHERIFF FOR SERVICE ON FISHER CONTROLS INTERNATIONAL, INC., ON 05/01/02.	NR
05/01/2002		SUMMONS SENT TO SHERIFF FOR SERVICE ON HYDRO CLEAN CO., INC., ON 05/01/02.	NR
05/01/2002		SUMMONS SENT TO SHERIFF FOR SERVICE ON JJ WHITE, INC., ON 05/01/02.	NR
05/01/2002		SUMMONS SENT TO SHERIFF FOR SERVICE ON NORTHEAST CONTROLS, INC. ON 05/01/02.	NR
05/01/2002		SUMMONS SENT TO SHERIFF FOR SERVICE ON PARSONS ENERGY AND CHEMICALS GROUP, INC. ON 05/01/02.	NR
05/01/2002		SUMMONS SENT TO SHERIFF FOR SERVICE ON PRAXAIR, INC.; ON 05/01/02.	NR
05/01/2002		SUMMONS SENT TO SHERIFF FOR SERVICE ON TEXACO AVIATION PRODUCTS LLC, ON 05/01/02.	NR
05/06/2002	5	HEARING BEFORE ALFORD, J. BY TELECONFERENCE ON MONDAY, 05/06/02 AT 2:30 P.M. PLAINTIFF'S MOTION FOR EXPEDITED DISCOVERY DECISION: GRANTED. FORM OF ORDER TO BE SUBMITTED TO THE COURT.	NR
05/06/2002	6	ENTRY OF APPEARANCE OF GARY W. LIPKIN, ESQ. FOR DEFENDANT, PRAXAIR, INC. IN THE ABOVE-CAPTIONED MATTER.	NR
05/09/2002	7	LETTER DATED 05/09/2002 FROM RANDALL E. ROBBINS TO JUDGE ALFORD: PURSUANT TO INSTRUCTIONS FROM YOUR HONORS OFFICE, WE ARE SUBMITTING A PROPOSED FORM OF ORDER TOGETHER WITH THIS LETTER. DEFENSE COUNSEL HAVE BEEN INFORMED THAT THEY MAY ALSO SUBMIT A FORM OF ORDER. (PROPOSED ORDER ATTACHED)	NR
05/09/2002	8	DEFENDANT'S MOTION FOR PRO HAC VICE OF JOSEPH H. RICHES, ESQ., (NJ, NY, PA) ; GARY W. LIPKIN ESQ., LOCAL (HLA - 05/17/02).	ALK
05/14/2002	9	LETTER DATED 05/10/2002 FROM GARY F. TRAYNOR, ESQ. TO JUDGE ALFORD; ON BEHALF OF MOTIVA ENTERPRISES, L.L.C. AND WITH THE CONCURRENCE AS TO FORM OF PRAXAIR, INC. AND PARSONS ENERGY AND CHEMICAL GROUPS, INC., I AM SUBMITTINGS HEREWITH A PROPOSED FORM OF ORDER WHICH WE BELIEVE IS CONSISTENT WITH YOUR HONOR'S RULING DURING THE MAY 6 TELECONFERENCE IN THE ABOVE-REFERENCED CASE.	NR
05/14/2002	#7	SO ORDER, ON 05/14/2002 BY ALFORD, J. IT IS HEREBY ORDERED THAT THE EXPEDITED DISCOVERY DEFENDANTS	

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 3

02C-04-263

SHALL SERVE ON PLAINTIFFS' COUNSEL ON OR BEFORE 05/15/02 AN ANSWER TO THE FOLLOWING INTERROGATORY: "IDENTIFY EVERY POSSIBLE PERSON (OTHER THAN INDIVIDUALS EMPLOYED BY THE DEFENDANTS OR INDIVIDUALS EMPLOYED BY ENTITIES BY THE DEFENDANTS) OR ENTITY, NOT PRESENTLY NAMED AS A DEFENDANT, THAT MAY BE LIABLE AND/OR RESPONSIBLE FOR THE MAY 20, 2002 OXYGEN EXPLOSION AT THE DELAWARE CITY POWER PLANT."

NR

05/15/2002 10 NOTICE OF SERVICE OF MOTIVA ENTERPRISES L.L.C.'S OBJECTIONS AND ANSWER TO PLAINTIFFS' EXPEDITED INTERROGATORY DIRECTED TO EXPEDITED DISCOVERY DEFENDANTS.

NR

05/15/2002 11 NOTICE OF SERVICE OF DEFENDANT PRAXAIR, INC.'S OBJECTIONS AND RESPONSE TO COURT-ORDERED INTERROGATORY

NR

05/16/2002 12 DEFENDANT FISHER CONTROL INTERNATIONAL, INC.'S ANSWER TO EXPEDITED DISCOVERY

NR

05/16/2002 13 NOTICE OF DEPOSITION (DUCES TECUM) OF THE RECORDS CUSTODIAN OF PMA MANAGEMENT CORP., ON WEDNESDAY, 05/05/02.

NR

05/16/2002 14 DEFENDANT'S MOTION FOR PRO HAC VICE OF F. WARREN JACOBY, ESQ., (PA) ; GARY W. LIPKIN, ESQ., LOCAL (HLA - 05/22/02).

ALK

05/17/2002 15 NOTICE OF SERVICE OF INTERROGATORIES DIRECTED TO PLAINTIFFS BY DEFENDANT BATTAGLIA MECHANICAL, INC., AND REQUESTS FOR PRODUCTION DIRECTED TO PLAINTIFFS BY DEFENDANT BATTAGLIA MECHANICAL, INC.

NR

05/20/2002 16 FIRST AMENDED COMPLAINT FILED ON 05/20/2002 ADDING ADDITIONAL DEFENDANTS.

05/22/2002 17 WRIT RETURNED
SERVED NORTHEAST CONTROLS, INC.
BY SERVING SECRETARY OF STATE ON 05/22/02
10 DEL. C. 3104.

NR

05/23/2002 #9 SIGNED BY ALFORD, J. ON 05/22/02, SO ORDERED.

ALK

05/23/2002 18 WRIT RETURNED
NON EST AS TO MOTIVA ENTERPRISES LLP
ON MAY 22, 2002.

DME

05/23/2002 18 WRIT RETURNED
SERVED BATTAGLIA MECHANICAL, INC., BY SERVING
REGISTERED AGENT ON MAY 7, 2002.

DME

05/23/2002 18 WRIT RETURNED
SERVED FISHER CONTROLS INTERNATIONAL BY SERVING

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 4

02C-04-263		REGISTERED AGENT ON MAY 3, 2002.	DME
05/23/2002	18	WRIT RETURNED SERVED HYDRO CLEAN CO., INC., BY SERVING REGISTERED AGENT ON MAY 7, 2002.	DME
05/23/2002	18	WRIT RETURNED SERVED JJ WHITE INC BY SERVING REGISTERED AGENT ON MAY 7, 2002.	DME
05/23/2002	18	WRIT RETURNED SERVED PARSONS ENERGY AND CHEMICALS GROUP BY SERVING REGISTERED AGENT ON MAY 3, 2002.	DME
05/23/2002	18	WRIT RETURNED SERVED PRAXAIR INC BY SERVING REGISTERED AGENT ON MAY 3, 2002.	DME
05/23/2002	18	WRIT RETURNED SERVED TEXACO AVIATION PRODUCTS LLC BY SERVING REGISTERED AGENT ON MAY 7, 2002.	DME
05/23/2002		#14 SIGNED BY ALFORD, J. ON 05/22/02, SC ORDERED.	ALK
05/31/2002	19	BATTAGLIA MECHANICAL, INC.'S ANSWER TO COMPLAINT	NR
05/31/2002	20	BATTAGLIA MECHANICAL, INC.'S ANSWER TO FORM 30 INTERROGATORIES	NR
05/31/2002	21	BATTAGLIA MECHANICAL, INC.'S ANSWER TO FIRST AMENDED COMPLAINT	NR
06/04/2002	22	NOTICE OF RECORDS DEPOSITION ONLY OF THE RECORDS CUSTODIAN, CONECTIVE OPERATING SERVICES COMPANY, INC., C/O CONECTIVE RESOURCE PARTNERS, INC., ON TUESDAY, 06/25/02 AT 10:00 A.M.	NR
06/05/2002	23	FIRST AMENDED - SUMMONS SENT TO SHERIFF FOR SERVICE ON JJ WHITE, INC. ON 06/05/02	NR
06/05/2002	23	FIRST AMENDED - (2) SUMMONS SENT TO SHERIFF FOR SERVICE ON NORTHEAST CONTROLS, INC. ON 06/05/02.	
06/05/2002	23	FIRST AMENDED - SUMMONS SENT TO SHERIFF FOR SERVICE ON TEXACO AVIATION PRODUCTIONS LLC ON 06/05/02.	NR
06/05/2002	23	FIRST AMENDED - SUMMONS SENT TO SHERIFF FOR SERVICE ON DAIKIN INDUSTRIES, LTD ON 06/05/02.	NR
06/05/2002	23	FIRST- AMENDED SUMMONS SENT TO SHERIFF FOR SERVICE ON SAINT-GOBAIN PERFORMANCE PLASTICS ON 06/05/02.	NR
06/05/2002	23	FIRST AMENDED - SUMMONS SENT OT SHERIFF FOR SERVICE ON RLX INDUSTRIES ON 06/05/02	NR

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 5

02C-04-263			
06/05/2002	23	FIRST AMENDED - SUMMONS SENT TO SHERIFF FOR SERVICE ON TEXACO GLOBAL GAS AND POWER ON 06/05/02	NR
06/05/2002	23	FIRST AMENDED - SUMMONS SENT TO SHERIFF FOR SERVICE ON TEXACO DEVELOPMENT CORPORATION ON 06/05/02	NR
06/05/2002	23	FIRST AMENDED - SUMMONS SENT TO SHERIFF FOR SERVICE ON GARY DELGREGO ON 06/05/02	NR
06/05/2002	23	FIRST AMENDED - SUMMONS SENT TO SHERIFF FOR SERVICE ON HYDROCHEM INDUSTRIAL SERVICES ON 06/05/02.	NR
06/06/2002	24	AMENDMENT TO THE COMPLAINT PURSUANT TO 10 DEL.C. 3104 AS TO DEFT. NORTHEAST CONTROLS, INC. REGISTERED MAIL SENT ON 05/29/02 BY ATTORNEY RANDALL E. ROBBINS, ESQ.	NR
06/07/2002	25	ANSWER OF DEFENDANT FISHER CONTROLS INTERNATIONAL, INC. TO FIRST AMENDED COMPLAINT	NR
06/11/2002	26	FISHER CONTROLS INTERNATIONAL, INC.'S ANSWER TO FORM 30 INTERROGATORIES	NR
06/11/2002	27	ENTRY OF APPEARANCE OF GREGORY B. WILLIAMS AND SHELDON K. RENNIE AS COUNSEL FOR DEFT. PARSONS ENERGY AND CHEMICAL GROUP, INC. IN THE ABOVE-CAPTIONED MATTER.	NR
06/12/2002	28	DEFENDANT'S MOTION FOR PRO HAC VICE OF JACQUELINE M. CAROLAN, ESQ. (NC, PA) ; GREGORY WILLIAMS, ESQ. LOCAL (HLA - 06/18/02)	ALK
06/13/2002	29	ANSWER OF MOTIVA ENTERPRISES LLC TO CROSSCLAIM OF FISHER CONTROLS INTERNATIONAL, INC.	NR
06/13/2002	30	BATTAGLIA MECHANICAL, INC'S ANSWER TO ANY AND ALL FUTURE CROSSCLAIMS	NR
06/17/2002	31	ANSWER AND CROSSCLAIM OF PRAXAIR, INC. TO PLAINTIFF'S FIRST AMENDED COMPLAINT	NR
06/17/2002	32	ANSWER OF DEFENDANT PRAXAIR, INC. TO CROSSCLAIM OF BATTAGLIA MECHANICAL, INC.	NR
06/17/2002	33	DEFENDANT PRAXAIR INC'S ANSWERS TO FORM 30 INTERROGATORIES	NR
06/17/2002	34	ANSWER OF DEFT. PRAXAIR, INC. TO THE CROSSCLAIM FOR CONTRIBUTION OF DEFT. FISHER CONTROLS INTERNATIONAL, INC.	NR
06/17/2002	35	NOTICE OF SERVICE OF PLTF'S RESPONSES TO REQUEST FOR PRODUCTION DIRECTED TO PLTF BY DEFT BATTAGLIA MECHANICAL, INC.	NR
06/17/2002	36	NOTICE OF SERVICE OF PLTF'S ANSWERS TO INTERROGATORIES	

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 06/27/2007

PAGE 6

02C-04-263		BY DEPT BATTAGLIA MECHANICAL, INC.	NR
06/19/2002	37	NOTICE OF DEPOSITION (DUCES TECUM) OF THE RECORDS CUSTODIAN OF PMA MANAGEMENT CORP., ON TUESDAY, 07/16/02 AT 10:00 A.M.	NR
06/19/2002	38	COSC'S RESPONSE TO PLAINTIFFS' NOTICE OF RECORDS DEPOSITION AND SUPOENA	NR
06/19/2002	39	ENTRY OF APPEARANCE OF ROGER D. LANDON, ESQ. AS ATTORNEY ON BEHALF OF THE DEPT, HYDROCHEM INDUSTRIAL SERVICES, INC.	NR
06/20/2002	40	ALIAS - SUMMONS SENT TO SHERIFF FOR SERVICE ON MOTIVA ENTERPRISES, LLC. ON 06/20/02.	NR
06/21/2002		#28 SIGNED BY COOCH, J. FOR ALFORD, J. ON 06/21/02 SO ORDERED.	ALK
06/24/2002	41	ANSWER OF DEFENDANT PARSONS ENERGY AND CHEMICALS GROUP, INC. TO CROSS-CLAIM OF FISHER CONTROLS INTERNATIONAL, INC. AGAINST ALL DEFENDANTS FOR CONTRIBUTION	NR
06/24/2002	42	ANSWER OF DEFENDANT PARSONS ENERGY AND CHEMICALS GROUP, INC. TO CROSS-CLAIM OF PRAXAIR, INC. AGAINST ALL DEFENDANTS FOR INDEMNIFICATION AND/OR CONTRIBUTION	NR
06/24/2002	43	ANSWER OF DEFENDANT PARSONS ENERGY AND CHEMICALS GROUP, INC. TO CROSS-CLAIM OF DEFENDANT BATTAGLIA, INC. FOR CONTRIBUTION AND INDEMNIFICATION	NR
06/25/2002	44	ENTRY OF APPEARANCE OF BRADFORD J. SANDLER, ESQ. AS COUNSEL FOR J.J. WHITE, INC.	NR
06/25/2002	45	ANSWER AND CROSSCLAIM OF DEFENDANT J.J. WHITE, INC. TO PLAINTIFFS' FIRST AMENDED COMPLAINT	NR
06/26/2002	46	ANSWER OF MOTIVA ENTERPRISES L.L.P. TO CROSSCLAIM OF PRAXAIR, INC.	NR
06/26/2002	47	WRIT RETURNED - FIRST AMENDED SERVED DIKIN INDUSTRIES, LTD. BY SERVING SECRETARY OF STATE ON 06/10/02 10 DEL. C. 3104.	NR
06/26/2002	47	WRIT RETURNED - FIRST AMENDED SERVED SAINT-GOBAIN PERFORMANCE PLASTICS BY SERVING SECRETARY OF STATE ON 06/10/02 10 DEL. C. 3104.	NR
06/26/2002	47	WRIT RETURNED - FIRST AMENDED SERVED RIX INDUSTRIES BY SERVING SECRETARY OF STATE ON 06/10/02	

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 7

02C-04-263		10 DEL. C. 3104.	NR
06/26/2002	47	WRIT RETURNED - FIRST AMENDED SERVED GARY DELGREGO BY SERVING SECRETARY OF STATE ON 06/10/02 10 DEL. C. 3104.	NR
06/26/2002	47	WRIT RETURNED - FRIST AMENDED SERVED NORTHEAST CONTROLS, INC., AT 3 ENTERPRISE AVE. CLIFTON PARK, NY 12065 AND NORTHEAST CONTROLS, INC., BY SERVING MICHAEL J. PETERS, CHAIRMAN, 51 TIMBERWICK DR., CLIFTON PARK, NY 12065, BY SERVING THE SECRETARY OF STATE ON 6/10/2002 10 DEL. C. 3104.	
06/25/2002	48	WRIT RETURNED - ALIAS SERVED MOTIVA ENTERPRISES L.L.C. BY SERVING THEIR REGISTERED AGENT, ALLAN STACHURA, TEAM LEADER ON 06/25/02.	NR
06/26/2002	49	NOTICE OF DEPOSITION (DUCES TECUM) OF THE RECORDS CUSTODIAN OF GREGORY ADAMS, M.D., ON FRIDAY, 07/19/02 AT 10:00 A.M.	NR
06/27/2002	50	SUBSTITUTION OF COUNSEL; PLEASE WITHDRAW THE APPEARANCE OF STEPHEN P. CASARINO, ESQ. AND ENTER THE APPEARANCE OF PAUL A. BRADLEY, ESQ AS COUNSEL FOR FISHER CONTROLS INTERNATIONAL, INC.	NR
06/27/2002	51	NOTICE OF SERVICE OF INTERROGATORIES OF DEFT PRAXAIR, INC., EXPERT INTERROGATORIES OF DEFT PRAXAIR, INC., AND REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS OF DEFT PRAXAIR, INC. ADDRESSED TO PLAINTIFF'S	NR
06/27/2002	52	ENTRY OF APPEARANCE OF KIMBERLY L. GATTUSO, ESQ. ON BEHALF OF DEFENDANT'S TEXACO AVIATION PRODUCTS, LLC, TEXACO DEVELOPMENT CORP. AND GARY DELGREGO	NR
06/28/2002	53	WRIT RETURNED - FIRST AMENDED SERVED JJ WHITE, INC BY SERVING MRS. PARNELL, SECRETARY OF SAID REGISTERED AGENT ON 06/11/02.	NR
06/28/2002	53	WRIT RETURNED - FIRST AMENDED SERVED HYDROCHEM INDUSTRIAL BY SERVING JOANNE MAYMI, REGISTERED AGENT ON 06/11/02.	NR
06/28/2002	53	WRIT RETURNED - FIRST AMENDED SERVED TEXACO AVIATION PRODUCTS INC., BY SERVING REGISTERED AGENT ON 6/14/2002.	
06/28/2002	53	WRIT RETURNED - FIRST AMENDED SERVED TEXACO DEVELOPMENT CORPORATION, BY SERVING REGISTERED AGENT ON 6/12/2002.	

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 8

02C-04-263 06/28/2002	53	WRIT RETURNED - FIRST AMENDED SERVED TEXACO GLOBAL GAS AND POWER, BY SERVING REGISTERED AGENT ON 6/12/2002.	
07/01/2002	54	DEFENDANT PRAXAIR INC'S AMENDED ANSWERS TO FORM 30 INTERROGATORIES	NR
07/02/2002	55	DEFENDANT MOTICA ENTERPRISES LLC'S ANSWERS TO FORM 30 INTERROGATORIES	NR
07/02/2002	56	MOTIVA ENTERPRISES L.L.C., ANSWER TO COMPLAINT.	
07/02/2002	57	ENTRY OF APPEARANCE OF PAUL M. LUKOFF, ESQ. ON BEHALF OF THE DEFENDANT, MOTIVA ENTERPRISES LLC	NR
07/02/2002	58	NOTICE OF SERVICE OF MOTIVA ENTERPRISES LLC'S REQUEST FOR PRODUCTION DIRECTED TO PLAINTIFFS, REQUEST UNDER RULE 9(G) AND INTERROGATORIES DIRECTED TO PLAINTIFFS	NR
07/02/2002	59	ANSWER OF MOTIVA ENTERPRISES LLC TO CROSSCLAIM OF J.J. WHITE, INC.	NR
07/03/2002	60	DEFENDANT'S MOTION FOR PRO HAC VICE OF MARK C. LEVY, ESQ., (MA PA) ; KIMBERLY L. GATTUSO ESQ. LOCAL (HLA - 07/18/02).	ALK
07/03/2002	61	DEFENDANT'S MOTION FOR PRO HAC VICE OF JAMES A. KELLER, ESQ., (NJ PA) ; KIMBERLY GATTUSO, ESQ., LOCAL (HLA - 07/18/02).	ALK
07/03/2002	62	DEFENDANT'S MOTION FOR PRO HAC VICE OF DONALD DAVIS ESQ. (PA) ; BRANDFORD J. SANDLER, ESQ. LOCAL (HLA - 07/18/02).	ALK
07/09/2002	63	NOTICE OF DEPOSITION (DUCES TECUM) OF THE FOLLOWING RECORDS CUSTODIANS ON TUESDAY, 08/06/02 AT 10:00 A.M.; BLUE HEN PHYSICAL THERAPY, VICTOR R. KALMAN, D.O.	NR
07/12/2002	64	ANSWER OF DEFENDANT, PRAXAIR, INC. TO THE CROSSCLAIM FOR INDEMNIFICATION AND/OR CONTRIBUTION OF DEFENDANTS, J.J. WHITE, INC.	NR
07/12/2002	65	DEFENDANT PARSONS ENERGY AND CHEMICALS GROUP, INC.'S ANSWERS TO FORM 30 INTERROGATORIES	NR
07/12/2002	66	ANSWER OF DEFENDANT PARSONS ENERGY AND CHEMICALS GROUP, INC. TO DEFENDANT J.J. WHITE, INC.'S CROSS-CLAIM FOR INDEMNIFICATION AND/OR CONTRIBUTION	NR
07/12/2002	67	ANSWER, AFFIRMATIVE DEFENSES AND CROSS-CLAIM OF DEFENDANT PARSONS ENERGY AND CHEMICALS GROUP, INC. TO PLAINTIFFS' FIRST AMENDED COMPLAINT	NR
07/12/2002	68	ANSWER OF DEFENDANT PARSONS ENERGY AND CHEMICALS	

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 9

02C-04-263		GROUP, INC. TO CROSS-CLAIM OF DEFENDANT MOTIVA ENTERPRISES, LLC.	NR
07/16/2002	69	AMENDMENT TO THE COMPLAINT PURSUANT TO 10 DEL.C.3104 AS TO DEFT RIX INDUSTRIES REGISTERED MAIL SENT ON 06/27/02 BY ATTORNEY RANDALL E. ROBBINS, ESQ.	NR
07/16/2002	70	AMENDMENT TO THE COMPLAINT PURSUANT TO 10 DEL.C. 3104 AS TO DEFT, SAINT-GOBAIN PERFORMANCE REGISTERED MAIL SENT ON 06/27/02 BY ATTORNEY RANDALL E. ROBBINS, ESQ.	NR
07/16/2002	71	NORTHEAST CONTROLS, INC.'S ANSWER TO PLAINTIFFS' FIRST AMENDED COMPLAINT, CROSSCLAIMS AND THIRD-PARTY COMPLAINT FILED ON 07/16/02.	NR
07/16/2002	72	DEFENDANT NORTHEAST CONTROLS, INC'S ANSWER TO FORM 30 INTERROGATORIES	NR
07/17/2002	73	NOTICE OF SERVICE OF INTERROGATORIES OF DEFT PARSONS ENERGY AND CHEMICALS GROUP, INC. ADDRESSED TO PLAINTIFFS; REQUEST UNDER RULE 9(G) AND REQUEST FOR PRODUCTION OF DOCUMENTS OF DEFT PARSONS ENERGY AND CHEMICALS GROUP, INC. ADDRESSED TO PLTFS	NR
07/19/2002	74	ANSWER OF DEFENDANT FISHER CONTROLS INTERNATIONAL, INC. TO CROSSCLAIMS BY PRAXAIR, INC.	NR
07/19/2002	75	THIRD-PARTY SUMMONS SENT TO SHERIFF FOR SERVICE ON CONNECTIV OPERATING SYSTEMS CN 07/19/02.	NR
07/23/2002		#61 SIGNED BY ALFORD, J. ON 07/23/02, SO ORDERED.	ALK
07/23/2002		#62 SIGNED BY ALFORD, J. ON 07/23/02, SO ORDERED.	ALK
07/23/2002		#60 SIGNED BY ALFORD, J. ON 07/23/02, SO ORDERED.	ALK
07/23/2002	76	LETTER DATED 07/23/02 FROM PROTHONOTARY TO COUNSEL: THE ABOVE CAPTIONED CASE HAS BEEN REASSIGNED TO JUDGE SLIGHTS. (WAS HJA)	ED
07/23/2002	77	AMENDMENT TO THE COMPLAINT PURSUANT TO 10 DEL.C. 3104 AS TO DEFENDANT GRAY DELGREGO REGISTERED MAIL SENT ON 06/27/02 BY ATTORNEY RANDALL E. ROBBINS, ESQ.	NR
07/24/2002	78	WRIT RETURNED - THIRD-PARTY SERVED CONNECTIV OPERATING SYSTEMS BY SERVING JUDITH, SECRETARY ON 07/23/02.	NR
07/25/2002	79	J.J. WHITE, INC.'S ANSWER TO CROSSCLAIM OF PRAXAIR, INC. AGAINST ALL DEFENDANTS FOR INDEMNIFICATION AND/OR CONTRIBUTION	NR
07/25/2002	80	ANSWER OF DEFENDANT J.J. WHITE, INC. TO NEW MATTER CROSSCLAIMS OF DEFENDANT PARSONS ENERGY	NR

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 10

02C-04-263 07/25/2002	81	ANSWER OF DEFENDANT J.J. WHITE, INC. TO CROSSCLAIM FOR CONTRIBUTION AND/OR INDEMNIFICATION OF DEFENDANT NORTHEAST CONTROLS, INC.	NR
07/25/2002	82	ANSWER OF DEFENDANT J.J. WHITE, INC. TO CROSSCLAIM FOR CONTRIBUTION AND/OR INDEMNIFICATION OF DEFENDANT BATTAGLIA MECHANICAL, INC.	NR
07/25/2002	83	ANSWER OF DEFENDANT J.J. WHITE, INC. TO CROSSCLAIM FOR CONTRIBUTION OF DEFENDANT FISHER CONTROLS, INC.	NR
07/25/2002	84	ANSWER OF DEFENDANT J.J. WHITE, INC. TO CROSSCLAIM OF DEFENDANT MOTIVA ENTERPRISES, L.L.C.	NR
07/25/2002	85	ANSWER OF DEFT. FISHER CONTROLS INT'L TO CROSSCLAIMS OF DEFT. PARSONS ENERGY AND CHEMICALS GROUP, INC.	DD
07/25/2002	86	ANSWER OF DEFT. FISHER CONTROLS INT'L TO CROSSCLAIM OF DEFT. J.J. WHITE, INC.	DD
07/25/2002	87	ANSWER OF DEFT. GARY DELGREGO TO CROSSCLAIM OF PRAXAIR, INC.	DD
07/25/2002	88	ANSWER OF DEFT. TEXACO AVIATION PRODUCTS TO CROSSCLAIM OF J.J. WHITE, INC.	DD
07/25/2002	89	ANSWER OF TEXACO DEVELOPMENT CORP. TO CROSSCLAIM OF J.J. WHITE, INC.	DD
07/26/2002	90	ANSWER OF GARY DELGREGO TO CROSSCLAIM OF J.J. WHITE, INC.	DD
07/26/2002	91	ANSWER OF DEFT. TEXACO DEVELOPMENT CORPORATION TO CROSSCLAIM OF PRAXAIR, INC.	DD
07/26/2002	92	ANSWER OF DEFT. TEXACO AVIATION PRODUCTS TO CROSSCLAIM OF PRAXAIR, INC.	DD
07/29/2002	93	NORTHEAST CONTROLS, INC'S AMENDED ANSWER, CROSSCLAIMS AND THIRD-PARTY COMPLAINT.	DD
07/29/2002	94	SUMMONS SENT TO SHERIFF FOR SERVICE ON CONNECTIV OPERATING SERVICES OF NORTHEAST CONTROLS, INC'S AMENDED ANSWER, CROSSCLAIMS AND THIRD-PARTY COMPLAINT.	DD
07/30/2002	95	ANSWER TO MOTIVA ENTERPRISES LLC TO CROSSCLAIM OF NORTHEAST CONTROLS, INC.	NR
07/30/2002	96	ANSWER OF MOTIVA ENTERPRISES LLC TO CROSSCLAIM OF PARSONS ENERGY AND CHEMICALS GROUP, INC.	NR
07/30/2002	97	JJ WHITE INC'S ANSWER TO FORM 30 INTERROGATORIES.	

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 11

02C-04-263 07/31/2002	98	DEFT. FISHER CONTROLS' MOTION FOR ADMISSION PRO HAV VICE OF PATRICK D. MCVEY, ESQ. (WA), LCCAL COUNSEL PAUL A. BRADLEY, ESQ., TO BE PRESENTED AT THE CONVENIENCE OF THE COURT.	DD
08/05/2002	99	ANSWER OF DEFT. PRAXAIR, INC. TO THE CROSSCLAIM FOR CONTRIBUTION OF DEFT. NORTHEAST CONTROLS, INC.	DD
08/05/2002	100	ANSWER OF DEFT. PRAXAIR, INC. TO THE CROSSCLAIM OF DEFT. MOTIVA ENTERPRISES, LLC	DD
08/05/2002	101	ANSWER OF DEFT. PRAXAIR, INC. TO THE CROSSCLAIMS OF DEFT., PARSONS ENERGY & CHEMICAL GROUP, INC.	DD
08/05/2002	102	ANSWER OF DEFT. TEXACO DEVELOPMENT CORPORATION TO PLAINTIFF'S FIRST AMENDED COMPLAINT AND CROSSCLAIM AGAINST MOTIVA ENTERPRISES LLC., BATTAGLIA MECHANICAL, INC., FISHER CONTROLS INTERNATIONAL, INC., JJ WHITE, INC., NORTHEAST CONTROLS, INC., PARSONS ENERGY & CHEMICALS GROUP, INC., AND PRAXAIR, INC.	DD
08/05/2002	103	ANSWER OF DEFT. TEXACO AVIATION PRODUCTS LLC TO PLTF'S FIRST AMENDED COMPLAINT AND CROSSCLAIM AGAINST MOTIVA ENTERPRISES LLC, BATTAGLIA MECHANICAL, INC., FISHER CONTROLS INTERNATIONAL, INC., JJ WHITE, INC., NORTHEAST CONTROLS, INC., PARSONS ENERGY AND CHEMICALS GROUP, INC. AND PRAXAIR, INC.	DD
08/05/2002	104	DEFT TEXACO DEVELOPMENT CORPORATION'S ANSWERS TO FORM 30 INTERROGATORIES.	DD
08/05/2002	105	DEFT TEXACO AVIATION PRODUCTS LLC'S ANSWERS TO FORM 30 INTERROGATORIES.	DD
08/06/2002	106	DEFT. GARY DELGREGO'S MOTION TO DISMISS TO BE PRESENTED 10/09/02 AT 9:15 A.M.	DD
08/07/2002	107	ANSWER OF DEFT. NORTHEAST CONTROLS, INC. TO DEFT. JJ WHITE, INC'S CROSSCLAIM.	DD
08/07/2002	108	ANSWER OF DEFT. NORTHEAST CONTROLS, INC' TO DEFT. PRAXAIR'S CROSSCLAIM.	DD
08/07/2002	109	ANSWER OF DEFT NORTHEAST CONTROLS INC. TO PARSONS ENERGY & CHEMICAL GROUP, INC'S CROSSCLAIM.	DD
08/07/2002	110	ANSWER OF DEFT. NORTHEAST CONTROLS, INC. TO DEFT. MOTIVA ENTERPRISES, LLC'S CROSSCLAIM.	DD
08/08/2002	111	ANSWER OF DEFT. TEXACO AVIATION PRODUCTS LLC TO CROSSCLAIM OF PARSONS ENERGY AND CHEMICALS GROUP, INC.	
08/08/2002	112	ANSWER OF DEFT. TEXACO AVIATION PRODUCTS LLC TO CROSSCLAIM OF NORTHEAST CONTROLS, INC.	DD

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 12

02C-04-263			
08/08/2002	113	ANSWER OF DEFT TEXACO DEVELOPMENT CORPORATION TO CROSSCLAIM OF NORTHEAST CONTROLS, INC.	DD
08/08/2002	114	ANSWER OF DEFT TEXACO AVIATION PRODUCTS LLC TO CROSSCLAIM OF MOTIVA ENTERPRISES LLC.	DD
08/08/2002	115	ANSWER OF DEFT. TEXACO DEVELOPMENT CORPORATION TO CROSSCLAIM OF MOTIVA ENTERPRISES LLC.	DD
08/08/2002	116	ANSWER OF DEFT TEXACO DEVELOPMENT CORPORATION TO CROSSCLAIM OF PARSONS ENERGY AND CHEMICALS GROUP, INC.	DD
08/09/2002	117	DEFT FISHER CONTROLS INTERNATIONAL, INC'S ANSWER TO CROSSCLAIMS OF DEFT. NORTHEAST CONTROLS, INC.	DD
08/09/2002	118	ANSWER OF DEFT FISHER CONTROLS INTERNATIONAL, INC. TO CROSSCLAIM FOR CONTRIBUTION AND INDEMNIFICATION OF BATTAGLIA MECHANICAL, INC.	DD
08/12/2002	120	NOTICE OF DEPOSITION (DUCES TECUM) OF THE INDUSTRIAL ACCIDENT BOARD ON FRIDAY, 08/30/02 AT 10:00 A.M.	NR
08/13/2002	119	LETTER DATED 08/08/02 FROM MICHAEL TIGHE TO SLIGHTS, J. DEFT. BATTAGLIA MECHANICAL TAKES NO POSITION WITH REGARD TO DEFT. GARY DELGREGO'S MOTION TO DISMISS SCHEDULED FOR 10/09/02.	DD
08/19/2002		#93 SIGNED BY SLIGHTS, J. ON 08/19/02, SO ORDERED. ALK	
08/20/2002	121	PRAXAIR INC'S ANSWER TO CROSSCLAIM OF DEFT. TEXACO DEVELOPMENT CORPORATION.	DD
08/20/2002	122	PRAXAIR INC'S ANSWER TO CROSSCLAIM OF DEFT. TEXACO AVIATION PRODUCTS, LLC.	DD
08/21/2002	123	ANSWER OF MOTIVA ENTERPRISES LLC TO FIRST AMENDED COMPLAINT	NR
08/21/2002	124	THIRD-PARTY DEFT CONECTIVE OPERATING SERVICES COMPANY, INC'S MOTION TO DISMISS THE THIRD-PARTY COMPLAINT OF NORTHEAST CONTROLS, INC. TO BE PRESENTED 10/04/02 AT 11:00 A.M.	DD
08/22/2002	125	WRIT RETURNED - THIRD PARTY SERVED OPERATING CONNECTIV BY SERVING REGISTERED AGENT ON 08/14/02.	DD
08/27/2002	126	LETTER DATED 08/23/02 FROM MICHAEL TIGHE TO SLIGHTS, J. DEFT BATTAGLIA MECHANICAL TAKES NO POSITION WITH REGARD TO THE MOTION TO DISMISSED FILED BY CONECTIV OPERATING SYSTEMS CO. TO BE PRESENTED 10/04/02.	DD
09/04/2002	127	ANSWER OF NORTHEAST CONTROLS, INC. TO TEXACO AVIATION	

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 13

02C-04-263		PRODUCTS CROSSCLAIM.	DD
09/10/2002	128	DAIKIN INDUSTRIES, LTD'S ANSWER TO FORM 30 INTERROGATORIES.	DD
09/10/2002	129	ANSWER TO PLTFS' FIRST AMENDED COMPLAINT & CROSSCLAIMS OF DEFT. DAIKIN INDUSTRIES.	DD
09/10/2002	130	DEFT. FISHER CONTROLS INT'L, INC'S ANSWER TO DEFT. TEXACO AVIATION PRODUCTS CROSSCLAIM AGAINST MOTIVA, BATTAGLIA MECH., FISHER CONTROLS., JJ WHITE, NORTHEAST CONTROLS, PARSONS ENERGY AND PRAXAIR.	DD
09/10/2002	131	DEFT FISHER CONTROLS INT'L, INC'S ANSWER TO DEFT. TEXACO DEVELOPMENT CORPORATION'S CROSSCLAIM AGAINST MOTIVA, BATTAGLIA MECH., FISHER CONTROLS., JJ WHITE, NORTHEAST CONTROLS, PARSONS ENERGY AND PRAXAIR.	DD
09/10/2002	132	DEFENDANT'S MOTION FOR PRO HAC VICE OF JAMES F.X. HILER ESQ., (NY) ; DAVID CULLEY, ESQ. LOCAL (JRS - 10/01/02).	ALK
09/13/2002	133	LETTER DATED 09/13/02 FROM SLIGHTS, J. TO ALL COUNSEL. PLEASE BE ADVISED THAT THE MOTION TO DISMISS THE THIRD-PARTY COMPLAINT OF NORTHEAST CONTROLS, INC., SCHEDULED TO BE PRESENTED ON 10/04/02 AT 11:00 A.M. IN OLSON VS. MOTIVA, 02C-04-263 WILL NOW BE HEARD ON FRIDAY, 10/25/02 AT 10:00 A.M. THE COURT HAS SET ASIDE THE MORNING TO HEAR MOTIONS. THE SCHEDULE FOR PRESENTATION FOLLOWS: 10:00 A.M., OLSON VS. MOTIVA, 02C-04-263 10:30 A.M., MOTIVA ENTERPRISES VS. FISHER CONTROLS, 02C-05-169; 11:00 A.M., GREAT AMERICAN ASSURANCE VS. FISHER CONTROLS INT'L, 02C-05-168.	DD
09/18/2002	134	PRAXAIR INC'S ANSWER TO CROSSCLAIM OF DEFT DAIKIN INDUSTRIES, LTD.	DD
09/24/2002	135	NOTICE OF SERVICE OF PLTFS (I) FIRST SET OF INTERROGATORIES; (II) FIRST SET OF DOCUMENT REQUESTS; AND (III) FIRST SET OF REQUESTS FOR ADMISSIONS DIRECTED TO DEFT GARY DELGREGO	NR
10/01/2002	136	LETTER DATED 10/01/02 FROM GREGORY INSKIP TO SLIGHTS, J. I WRITE TO ADVISE THE COURT THAT CONECTIV OPERATING SERVICES CO'S MOTION TO DISMISS THE THIRD-PARTY COMPANY OF FISHER CONTROLS IN THE GREAT AMERICAN CASE NOW SCHEDULED FOR 10/25/02 AT 10:00 A.M. WILL BE DEFERRED AND CAN BE TAKEN OFF YOUR HONOR'S SCHEDULE. TWO OTHER MOTIONS REMAIN SCHEDULED.	DD
10/01/2002	137	ENTRY OF APPEARANCE OF C. CURTIS STAROPOLI AS ATTORNEYS FOR DEFENDANT SAINT-GOBAIN PERFORMANCE	

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 14

02C-04-263

PLASTICS.

NR

10/02/2002 136 ANSWER OF DEFT. PARSONS ENERGY AND CHEMICALS GROUP, INC. TO CROSS-CLAIM OF DEFT. TEXACO AVIATION PRODUCTS.

10/02/2002 139 ANSWER OF DEFT. PARSONS ENERGY AND CHEMICALS GROUP, INC. TO CROSS-CLAIM OF DEFT. TEXACO DEVELOPMENT CORPORATION. DD

10/02/2002 140 ANSWER OF DEFT. PARSONS ENERGY AND CHEMICALS GROUP, INC. TO DEFT. NORTHEAST CONTROLS, INC.'S. AMENDED CROSSCLAIM. DD

10/03/2002 #132 SIGNED BY SLIGHTS, J. SO ORDERED. ALK

10/03/2002 141 ANSWER OF DEFT. TEXACO AVIATION PRODUCTS, LLC TO CROSSCLAIM OF DAIKIN INDUSTRIES, LTD. DD

10/03/2002 142 ANSWER OF DEFT. TEXACO DEVELOPMENT CORPORATION TO CROSSCLAIM OF DAIKIN INDUSTRIES, LTD. DD

10/04/2002 143 ANSWER OF DEFT. FISHER CONTROLS INTERNATIONAL, INC. TO CROSSCLAIMS BY DAIKIN INDUSTRIES, LTD., AND ANSWER TO CROSSCLAIM BY DAIKIN INDUSTRIES, LTD., AGAINST ALL CO-DEFENDANTS FOR INDEMNIFICATION AND/OR CONTRIBUTION.

10/07/2002 144 ANSWER OF DEFT. PARSONS ENERGY AND CHEMICALS GROUP, INC. TO DEFT. DAIKIN INDUSTRIES LTD. CROSSCLAIM. DD

10/10/2002 145 SUBSTITUTION OF COUNSEL WITHDRAWING THE APPEARANCE OF GARY W. LIPKIN AND ENTERING THE APPEARANCE OF JENNIFER L. SCOLIARD AS COUNSEL FOR DEFT. PRAXAIR. DD

10/16/2002 146 PARTIAL STIPULATION OF DISMISSAL - IT IS HEREBY STIPULATED BE AND BETWEEN THE THIRD-PARTY PLTF. NORTHEAST CONTROLS, INC. AND THIRD-PARTY DEFT., CONNECTIV OPERATING SERVICES (INCORRECTLY DESIGNATED AS CONNECTIV OPERATING SYSTEMS) THAT THE AFORESAID ACTION AGAINST THIRD-PARTY DEFT. CONNECTIV OPERATING SERVICES, BE DISMISSED WITH PREJUDICE, WITH COSTS TO BE ASSESSED AGAINST EACH PARTY. DD

10/16/2002 #146 SO ORDER, ON 10/16/2002 BY SLIGHTS, J. DD

10/16/2002 147 ANSWER OF DAIKIN INDUSTRIES, LTD. TO PARSONS ENERGY AND CHEMICALS GROUP, INC.'S NEW MATTER CROSSCLAIMS. DD

10/16/2002 148 ANSWER OF DAIKIN INDUSTRIES, LTD., TO BATTAGLIA MECHANICAL INC'S CROSSCLAIM FOR CONTRIBUTION AND INDEMNIFICATION.

10/16/2002 149 ANSWER OF DEFT. DAIKIN INDUSTRIES, LTD., TO FISHER CONTROLS, INC. CROSSCLAIM FOR CONTRIBUTION. DD

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 15

02C-04-253 10/15/2002	150	ANSWER OF DEFT. DAIKIN INDUSTRIES, LTD. TO J.J. WHITE, INC'S. CROSSCLAIM AGAINST ALL DEFTS FOR INDEMNIFICATION AND/OR CONTRIBUTION.	
10/15/2002	151	ANSWER OF DEFT. DAIKIN INDUSTRIES, LTD., TO MOTIVA ENTERPRISES, LLC'S CROSSCLAIM AGAINST CO-DEFTS.	DD
10/15/2002	152	ANSWER OF DEFT. DAIKIN INDUSTRIES, LTD. TO NORTHEAST CONTROLS, INC'S CROSSCLAIM AGAINST ALL OTHER DEFTS.	DD
10/15/2002	153	ANSWER OF DEFT. DAIKIN INDUSTRIES, LTD TO PRAXAIR, INC'S CROSSCLAIM AGAINST ALL DEFTS.	DD
10/17/2002	154	RENOTICE OF DEFT. GARY DELGREGO'S MOTION TO DISMISS TO BE PRESENTED 11/15/02 AT 1:30 P.M.	DD
10/22/2002	155	HYDROCHEM INDUSTRIAL'S ANSWER TO FORM 30 INTERROGATORIES.	DD
10/22/2002	156	HYDROCHEM INDUSTRIAL SERVICES' ANSWER TO FIRST AMENDED COMPLAINT AND CROSSCLAIMS FOR INDEMNIFICATION AND/OR CONTRIBUTION AGAINST CO-DEFENDANTS.	
10/30/2002	157	ANSWER OF MOTIVA ENTERPRISES TO CROSSCLAIM OF HYDROCHEM INDUSTRIAL SERVICES, INC.	DD
10/31/2002	158	DEFT. PARSONS ENERGY AND CHEMICALS GROUP'S ANSWER TO CROSSCLAIM OF DEFT. HYDROCHEM INDUSTRIAL SVCS.	DD
11/04/2002	159	ANSWER AND AFFIRMATIVE DEFENSES OF DEFT. SAINT-GOBAIN PERFORMANCE PLASTICS CORP. TO PLTFS' FIRST AMENDED COMPLAINT WITH CROSSCLAIMS AGAINST ALL CO-DEFTS.	DD
11/04/2002	160	DEFENDANT SAINT-GOBAIN PERFORMANCE PLASTICS CORPORATION'S ANSWERS TO FORM 30 INTERROGATORIES	NR
11/06/2002	161	ANSWER OF DEFT. PRAXAIR, INC. TO THE CROSSCLAIM OF DEFT. HYDROCHEM INDUSTRIAL SERVICES, INC.	DD
11/06/2002	162	DEFT. BATTAGLIA MECHANICAL'S MOTION TO CONSOLIDATE WITH 02C-05-168-JRS TO BE PRESENTED 11/25/02 AT 9:00 A.M.	DD
11/08/2002	163	FISHER CONTROLS INTERNATIONAL, INC'S RESPONSE TO DEFT. GARY DELGREGO'S MOTION TO DISMISS TO BE HEARD 11/15/02 AT 1:30 P.M.	DD
11/08/2002	164	NOTICE OF DISMISSAL - PLTFS HEREBY VOLUNTARILY DISMISS, WITHOUT PREJUDICE, THE AMENDED COMPLAINT AGAINST DEFT. GARY DELGREGO.	DD
11/12/2002	165	ANSWER OF MOTIVA ENTERPRISES TO CROSSCLAIM OF SAINT-GOBAIN PERFORMANCE PLASTICS CORPORATION.	DD
11/12/2002	166	DEFENDANT'S MOTION FOR PRO HAC VICE OF JOSEPH H. RICHES	

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 16

02C-G4-263

3SQ. (NJ NY PA) ; JENNIFER SCOLIARD ESQ. LOCAL
(JRS - 11/15/02). ALK11/12/2002 167 DEFENDANT'S MOTION FOR PRO HAC VICE OF F. WARREN JACOBY
ESQ. (PA) ; JENNIFER SCOLIARD, ESQ. LOCAL
(JRS - 11/15/02). ALK11/13/2002 168 ANSWER OF DEFT. PRAXAIR, INC. TO THE CROSSCLAIM OF
DEFT. ST. GOBAIN PERFORMANCE PLASTICS CORP. DD11/18/2002 169 LETTER DATED 11/15/02 FROM KIMBERLY GATTUSO TO
SLIGHTS, J. ON 11/08/02, PLTF'S FILED A NOTICE OF
DISMISSAL DISMISSING MR. DELGREGO. AS A RESULT,
MR. DELGREGO'S MOTION TO DISMISS IS HEREBY
WITHDRAWN. DD

11/18/2002 #166 SIGNED BY SLIGHTS, J. ON 11/18/02, SO ORDERED. ALK

11/18/2002 170 ANSWER OF SAINT-GOBAIN PERFORMANCE PLASTICS CORP. TO
THE CROSSCLAIM OF NORTHEAST CONTROLS, INC. DD11/18/2002 171 ANSWER OF SAINT-GOBAIN PERFORMANCE PLASTICS CORP TO
THE CROSSCLAIM OF PARSONS ENERGY AND CHEMICALS GROUP,
INC. DD11/18/2002 172 ANSWER OF SAINT GOBAIN PERFORMANCE PLASTICS TO THE
CROSSCLAIM OF BATTAGLIA MECHANICAL, INC. DD11/18/2002 173 ANSWER OF SAINT-GOBAIN PERFORMANCE PLASTICS TO THE
CROSSCLAIM OF C.J. WHITE, INC. DD11/18/2002 174 ANSWER OF SAINT-GOBAIN PERFORMANCE PLASTICS TO THE
CROSSCLAIM OF FISHER CONTROLS INT'L., INC. DD11/19/2002 175 LETTER DATED 11/15/2002 FROM PAUL BRADLEY TO JUDGE
SLIGHTS, RE: A HEARING IS SET FOR TODAY REGARDING
MTNS IN THE CASES AND I UNDERSTAND THE COURT MAY WANT
TO DISCUSS THE STATUS. JL11/19/2002 176 DEFT. BATTAGLIA MECHANICAL'S RENOTICE OF MOTION TO
CONSOLIDATE TO BE PRESENTED 11/25/02 AT 1:00 P.M. DD11/19/2002 177 DEFT. FISHER CONTROLS INTERNATIONAL'S RESPONSE TO DEFT.
BATTAGLIA MECHANICAL, INC'S MOTION TO CONSOLIDATE TO BE
PRESENTED 11/25/02 AT 1:00 P.M. DD11/19/2002 178 DEFT. PARSONS ENERGY AND CHEMICALS GROUP, INC'S ANSWER
TO DEFT. SAINT-GOBAIN PERFORMANCE PLASTICS CORP.'S
CROSSCLAIM AGAINST ALL CO-DEFTS. DD11/21/2002 179 ANSWER OF DEFT. SAINT-GOBAIN PERFORMANCE PLASTICS
CORPORATION TO THE CROSSCLAIM OF DEFT. DAIKIN
INDUSTRIES. DD

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 17

02C-04-263			
11/21/2002	180	ANSWER OF DEFT. SAINT-GOBAIN PERFORMANCE PLASTICS CORPORATION TO THE CROSSCLAIM OF DEFT. HYDROCHEM INDUSTRIAL SERVICES, INC.	DD
11/21/2002	181	ANSWER OF DEFT. SAINT-GOBAIN PERFORMANCE PLASTICS CORPORATION TO THE CROSSCLAIM OF DEFT. PRAXAIR, INC.	DD
11/26/2002	182	NOTICE OF SERVICE OF THIRD PARTY DEFT., BATTAGLIA MECHANICAL, INC.'S SECOND SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION DIRECTED TO FISHER CONTROLS INTERNATIONAL AND FISHER'S RESPONSES.	KDC
12/02/2002	183	DEFENDANT'S MOTION FOR PRO HAC VICE OF THOMAS WAGNER, ESQ., (NY PA) ; DELLA CHARK, ESQ. LOCAL (JRS - 12/17/02).	ALK
12/04/2002	184	FISHER CONTROLS INTERNATIONAL'S ANSWER TO CROSSCLAIMS AGAINST ALL CO-DEFTS OF DEFT MOTIVA ENTERPRISES.	COL
12/04/2002	185	FISHER CONTROLS INTERNATIONAL'S ANSWER TO CROSSCLAIM BY DEFT SAINT-GOBAIN PERFORMANCE PLASTICS CORP.	COL
12/09/2002	186	FISHER CONTROLS INTERNATIONAL'S ANSWER TO 3RD PARTY HYDROCHEM INDUSTRIAL SERVICES'S CROSSCLAIM FOR INDEMNIFICATION AND/OR CONTRIBUTION AGAINST DEFTS AND 3RD PARTY CO-DEFTS.	COL
12/09/2002	187	FISHER CONTROLS INTERNATIONAL'S ANSWER TO CROSSCLAIM OF 3RD PARTY DEFTS DAIKIN AMERICA AND DAIKIN INDUSTRIES AGAINST ALL CO-DEFTS FOR INDEMNIFICATION AND/OR CONTRIBUTION.	COL
12/09/2002	188	FISHER INTERNATIONAL'S ANSWER TO CROSSCLAIMS FOR CONTRIBUTION OF 3RD PARTY DEFT BATTAGLIA MECHANICAL.	COL
12/09/2002	189	FISHER INTERNATIONAL'S ANSWER TO CROSSCLAIM BY PRAXAIR AGAINST ALL DEFTS FOR INDEMNIFICATION AND/OR CONTRIBUTION.	COL
12/09/2002	190	FISHER CONTROLS INTERNATIONAL'S ANSWER TO NORTHEAST CONTROL'S CROSSCLAIMS AGAINST FISHER INTERNATIONAL.	COL
12/09/2002	191	FISHER CONTROLS INTERNATIONAL'S ANSWER TO CROSSCLAIM OF DAIKIN AMERICA, INC. AND DAIKIN INDUSTRIES, LTD. AGAINST ALL CO-DEFTS FOR INDEMNIFICATION AND/OR CONTRIBUTION.	COL
12/09/2002	192	FISHER CONTROL INTERNATIONAL'S ANSWER TO CROSSCLAIM OF J.J. WHITE, INC AGAINST ALL DEFTS AND 3RD PARTY DEFTS FOR INDEMNIFICATION AND/OR CONTRIBUTION.	COL
12/09/2002	193	FISHER CONTROLS INTERNATIONAL'S ANSWER TO HYDROCHEM INDUSTRIAL SERVICES'S CROSSCLAIMS FOR INDEMNIFICATION AND/OR CONTRIBUTION AGAINST DEFTS AND 3RD PARTY	

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 18

02C-04-263		CO-DEFTS.	COL
12/09/2002	194	FISHER CONTROL INTERNATIONAL'S ANSWER TO CROSSCLAIM AGAINST ALL CO-DEFTS OF DEFT MOTIVA ENTERPRISES.	COL
12/09/2002	195	FISHER CONTROLS INTERNATIONAL'S ANSWER TO CROSSCLAIMS FOR CONTRIBUTION OF 3RD PARTY DEFT BATTAGLIA MECHANICAL, INC.	COL
12/09/2002	196	FISHER CONTROLS INTERNATIONAL'S ANSWER TO NORTHEAST CONTROLS, INC'S CROSSCLAIMS AGAINST ALL CO-DEFTS.	COL
12/10/2002	197	PRAXAIR INC'S ANSWER WITH AFFIRMATIVE DEFENSES AND CROSS-CLAIMS OF THIRD PARTY DEFT., PRAXAIR, INC. TO THE THIRD PARTY COMPLAINT OF DEFT., NORTHEAST CONTROLS, INC. IN THE GREAT AMERICAN ASSURANCE COMPANY ACTION.	KDC
12/12/2002	198	NOTICE OF SERVICE DEFT'S INTERROG'S DIRECTED TO PLTF'S REQUEST FOR PRODUCTION DIRECTED TO THE PLTF, SERVED TO DEFENSE ATTORNEYS.	JW
12/16/2002	199	DEFT.'S MOTION FOR COMMISSION SCHEDULED FOR JANUARY 6, 2003 AT 9:00 A.M.	KDC
12/16/2002	200	MOTIVA ENTERPRISES ANSWER TO CROSSCLAIM OF PRAXAIR, INC.	KDC
12/17/2002	201	DAIKIN INDUSTRIES, LTD'S ANSWER TO CROSSCLAIM OF TEXACO DEVELOPMENT CORPORATION.	KDC
12/17/2002	202	DAIKIN INDUSTRIES, LTD ANSWER TO CROSSCLAIM OF TEXACO AVIATION PRODUCTS, LLC.	KDC
12/17/2002	203	DAIKIN INDUSTRIES, LTD ANSWER TO CROSSCLAIM OF TEXACO, INC.	KDC
12/17/2002	204	DAIKIN INDUSTRIES, LTD. ANSWER TO CROSSCLAIM OF CONECTIV OPERATING SERVICES COMPANY.	KDC
12/17/2002	205	DAIKIN INDUSTRIES, LTD ANSWER TO CROSSCLAIM OF PRAXAIR, INC.	KDC
12/17/2002	206	DAIKIN INDUSTRIES, LTD. ANSWER TO CROSSCLAIM OF HYDROCHEM INDUSTRIAL SERVICES, INC. IN THE GREAT AMERICAN ASSURANCE COMPANY ACTION.	KDC
12/17/2002	207	DAIKIN INDUSTRIES, LTD. ANSWER TO CROSSCLAIM OF PARSONS ENERGY AND CHEMICALS GROUP, INC.	
12/17/2002	208	DAIKIN INDUSTRIES, LTD. ANSWER TO CROSSCLAIM OF HYDROCHEM INDUSTRIAL SERVICES, INC. IN THE MOTIVA ENTERPRISES, LLC ACTION.	KDC

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 19

02C-04-263			
12/17/2002	209	DAIKIN INDUSTRIES, LTD. ANSWER TO CROSSCLAIM OF TEXACO AVIATION PRODUCTS, LLC. IN THE GREAT AMERICAN ASSURANCE ACTION.	KDC
12/17/2002	210	DAIKIN INDUSTRIES, LTD. ANSWER TO CROSSCLAIM OF HYDROCHEM INDUSTRIAL SERVICES IN THE PRAXAIR INC. ACTION.	KDC
12/17/2002	211	DAIKIN INDUSTRIES, LTD. ANSWER TO CROSSCLAIM OF MOTIVA ENTERPRISES, LLC IN THE PRAXAIR ACTION.	KDC
12/17/2002	212	DAIKIN INDUSTRIES, LTD. ANSWER TO CROSSCLAIM OF TEXACO INC. IN THE GREAT AMERICAN ASSURANCE COMPANY ACTION.	KDC
12/17/2002	213	DAIKIN INDUSTRIES, LTD. ANSWER TO CROSSCLAIM OF PARSONS ENERGY AND CHEMICALS GROUP, INC. IN THE GREAT AMERICAN ASSURANCE COMPANY ACTION.	
12/17/2002	214	DAIKIN INDUSTRIES, LTD. ANSWER TO CROSSCLAIM OF PRAXAIR INC. IN THE GREAT AMERICAN ASSURANCE COMPANY ACTION.	KDC
12/17/2002	215	DAIKIN INDUSTRIES, LTD. ANSWER TO CROSSCLAIM OF CONNECTIV OPERATING SERVICES COMPANY IN THE PRAXAIR INC. ACTION.	KDC
12/17/2002	216	DAIKIN INDUSTRIES, LTD. ANSWER TO CROSSCLAIM OF TEXACO INC. IN THE MOTIVA ENTERPRISES, LLC ACTION.	KDC
12/17/2002	217	DAIKIN INDUSTRIES, LTD. ANSWER TO CROSSCLAIM OF SAINT-GOBAIN PERFORMANCE PLASTICS CORPORATION IN THE OLSON ACTION.	KDC
12/17/2002	218	DAIKIN INDUSTRIES, LTD. ANSWER TO CROSSCLAIM OF TEXACO AVIATION PRODUCTS, LLC IN THE PRAXAIR, INC. ACTION.	KDC
12/17/2002	219	DAIKIN INDUSTRIES, LTD. ANSWER TO CROSSCLAIM OF MOTIVA ENTERPRISES, LLC IN THE GREAT AMERICAN ASSURANCE COMPANY ACTION.	KDC
12/17/2002	220	DAIKIN INDUSTRIES, LTD. ANSWER TO CROSSCLAIM OF PARSONS ENERGY AND CHEMICALS GROUP IN THE PRAXAIR, INC. ACTION.	KDC
12/18/2002		#183 SIGNED BY SLIGHTS, J. ON 12/18/02, SO ORDERED. ALK	
12/19/2002		#195 SO ORDER, ON 12/19/2002 BY SLIGHTS, J.	KDC
12/20/2002	221	PLAINTIFF'S MOTION TO CONSOLIDATE SCHEDULED FOR 01/27/2003 @ 9:00 A.M.	JW

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 20

02C-04-263 12/30/2002	222	OPERATING CONNECTIV'S ANSWER TO CROSSCLAIM.	
12/30/2002	223	ANSWER OF THIRD PARTY DEFT, PRACAIR, INC. TO THE CROSS CLAIM OF THIRD PARTY DEFT, BATTAGLIA MECHANICAL, INC., IN THE GREAT AMERICAN ACTION.	MJM
01/06/2003	224	ENTRY OF APPEARANCE OF JOSEPH GULHA, ESQ ON BEHALF OF PARSONS ENERGY AND CHEMICAL.	MJM
01/07/2003	225	NOTICE OF SERVICE THAT TWO TRUE AND CORRECT COPIES OF FISHER CONTROLS INTERNATIONAL, INC'S REQUEST PURSUANT TO SUPERIOR COURT RULE 9(G) DIRECTED TO MOTIVA ENTERPRISES, LLC, WERE SERVED ON JANUARY 7, 2003.	MJM
01/07/2003	226	NOTICE OF SERVICE THAT TWO TRUE AND CORRECT COPIES OF FISHER CONTROLS INTERNATIONAL, INC.'S REQUEST PURSUANT TO SUPERIOR COURT RULE 9(G) DIRECTED TO GREAT AMERICAN ASSURANCE COMPANY ON JANUARY 7, 2003.	MJM
01/07/2003	227	NOTICE OF SERVICE THAT TWO TRUE AND CORRECT COPIES OF FISHER CONTROLS INTERNATIONAL, INC'S REQUEST PURSUANT TO SUPERIOR COURT RULE 9(G) DIRECTED TO PRAXAIR, INC. WERE SERVED ON JANUARY 7, 2003.	MJM
01/10/2003	228	SCHEDULED FOR 01/27/2003 DEFENDENT FISHER CONTROLS INTERNATIONAL, INC. WILL PRESENT A MOTION FOR ENTRY OF A PROTECTIVE ORDER ON THIS DATE.	MJM
01/10/2003	229	TRANSCRIPT FROM STATUS CONFERENCE HEARING HELD NOVEMBER 25, 2002.***ORIGINAL TRANSCRIPT CAN BE FOUND IN FILE 02C-05-168***	MJM
01/10/2003	230	ANSWER OF THIRD PARTY DEFENDANTS DAIKIN AMERICAN, INC. AND DAIKIN INDUSTRIES, LTD. TO CROSS-CLAIM OF SAINT GOBAIN PERFORMANCE PLASTICS CORPORATION IN THE GREAT AMERICAN ASSURANCE COMPANY ACTION.	MJM
01/14/2003	231	LETTER DATED 01/14/2003 FROM GREGORY A. INSKIP, ESQ. DEAR JUDGE SLIGHTS, I REPRESENT CONECTIV OPERATING SERVICES COMPANY, INC. IN THIS MATTER WHICH ARISES OUT OF AN INCIDENT AT THE DELAWARE CITY POWER PLANT ON MAY 20, 2000. I WRITE TO ADVISE THE COURT THAT COSC'S MOTION TO DISMISS THE THRID-PARTY COMPANY OF FISHER CONTORLS IN THE GREAT AMERICAN CASE NOW SCHEDULED TO BE HEARD ON FRIDAY OCTOBER 25, 2002, AT 10:00AM WILL BE DEFERRED AND CAN BE TAKEN OFF YOUR HONOR'S SCHEDULE.	MJM
01/16/2003	232	JJ WHITE INC'S ANSWER TO 3RD PARTY COMPLAINT OF DEFTS' NORTHEAST CONTROLS, INC. AND CROSSCLAIMS IN THE MOTIVA ENTERPRISES, LLC, ACTION.	
01/16/2003	233	ANSWER OF THIRD PARTY DEFENDANT J.J. WHITE, INC. TO THE THRID-PARTY VOMPLAINT OF DEFT NORTHEAST CONTROLS, INC. AND CROSSCLAIMS IN THE GREAT AMERICAN ASSURANCE COMPANY	

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 21

02C-04-263		ACTION. _____	MJM
01/21/2003	234	ENTERPRISES LLP MOTIVA'S ANSWER TO CROSSCLAIM OF J.J. WHITE, INC. IN GREAT AMERICAN ASSURANCE COMPANY ACTION.	MJM
01/21/2003	235	ENTERPRISES LLP MOTIVA'S ANSWER TO CROSSCLAIM OF J.J. WHITE, INC. IN MOTIVA ENTERPRISES LLC ACTION. _____	MJM
01/21/2003	246	NOTICE OF RESPONSE TO MOTION, DEFT RESPONSE TO THE PLTF'S MOTION TO CONSOLIDATE.	MJM
01/22/2003	232	NOTICE OF DEPOSITION OF THE DESIGNATED CUSTODIAN OF RECORDS OF EDEN PARK INSURANCE BROKERS ON 1/29/03.	MJM
01/22/2003	238	LTD DAIKIN INDUSTRIES'S ANSWER TO CROSSCLAIM OF J.J. WHITE IN THE GREAT AMERICAN ASSURANCE COMPANY ACTION. _____	MJM
01/22/2003	239	LTD DAIKIN INDUSTRIES'S ANSWER TO CROSSCLAIM OF J.J. WHITE IN THE MOTIVA ENTERPRISES, LLC ACTION. _____	MJM
01/22/2003	240	RESPONSE OF THIRD PARTY DEFENDANT, PRAXAIR, INC. TO THE CROSS-CLAIM OF THIRD PARTY DEFENDANT J.J. WHITE, INC. ASSERTED IN THE ANSWER OF J.J. WHITE, INC. TO THE THIRD PARTY COMPLAINT OF DEFENDANT, NORTHEAST CONTROLS, INC. IN THE GREAT AMERICAN ASSURANCE COMPANY ACTION.	MJM
01/23/2003	233	DEFENDANT'S MOTION FOR PRO HAC VICE OF ALEXANDER EWING, JR. ESQ. (PA) ; C. CURTIS STAROPOLI, ESQ. LOCAL: (HLA - 01/23/03).	ALK
01/23/2003	243	LETTER DATED 01/23/2003 FROM JOSEPH C. HANDLON TO JUDGE SLIGHTS. RE: PLTF WISHES THAT THE COURT PROPOSE THAT THE ANY OPPOSITION PAPERS TO THE CONSOLIDATION BE FILED ON FEBRUARY 5, 2003 AND THE PLTF WILL FILE THEIR REPLY ON MARCH 7, 2003. LASTLY, THE PLTF'S DO NOT OBJECT TO THE DEFENDANT'S REQUEST FOR RELIEF FROM THE FOUR-PAGE LIMIT BUT REQUEST THAT THE FOUR-PAGE LIMIT ALSO NOT APPLY TO THE PLTF.	MJM
01/23/2003	248	SCHEDULED FOR 02/17/2003. DEFT. FISHER CONTROLS INTERNATIONAL, INC.'S MOTION FOR ENTRY OF A PROTECTIVE ORDER IS HEREBY RE-NOTICED TO FEBRUARY 17, 2003.	MJM
01/23/2003	249	NOTICE OF DISMISSAL OF GARY DELGREGO WITHOUT PREJUDICE. _____	MJM
01/24/2003	237	LETTER DATED 01/22/2003 FROM KIMBERLY L. GATUISO, EDQ. MS. GATTUSO WRTE THE COURT TO PROPOSE THE FOLLOWING DATES:	

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 22

02C-C4-263

OPENING BRIEFS IN SUPPORT OF THE MTN. TO CONSOLIDATE
2/5/03ANSWER BRIEFS IN OPPOSITION TO THE MTN TO CONSOLIDATE
3/7/03REPLY BRIEFS IN SUPPORT OF THE MTN TO CONSOLIDATE
3/21/03

ORAL ARGUMENTS

4/11/03 @ 1:30 P.M. _____ MJM

01/24/2003 251 RENOTICE OF MOTION. DEFT FISHER CONTROLS INTERNATIONAL
INC.'S MOTION FOR ENTRY OF A PROTECTIVE ORDER
RESCHEDULED FOR FEBRUARY 24, 2003. MJM

01/24/2003 #233 SO ORDER, ON 01/24/2003 BY ALFORD, J.

01/27/2003 236 LETTER DATED 01/23/2003 FROM JOSEPH C. HANDLON, ESQ.
TO JUDGE SLIGHTS IN REGARDS TO THE FILING DATE OF
RESPONSES TO MOTION TO CONSOLIDATE FILED BY THE PLTF'S.
MR. HANDOLON WOULD LIKE THAT ALL RESPONSES BE FILED BY
FEBRUARY 10, 2003. AND THAT ARGUMENT ON THE MOTION
SHALL BE HEARD ON 3/13/03 AT 2:00PM. _____ MJM

01/27/2003 #236 SO ORDER, ON 01/27/2003 BY SLIGHTS, J.
IT IS HEREBY ORDERED THAT ALL RESPONSES TO THE MOTION
TO CONSOLIDATE FILED BY RONALD AND CAROL OLSON SHALL
BE FILED NO LATER THEN 2/10/03 WITH ANY REPLY TO BE
FILED NO LATER THAN MARCH 7, 2003. ARGUMENTS ON THE
MOTION SHALL BE ON MARCH 13, 2003 AT 2:00PM. BRIEFING
IS TO BE GOVERNED BY CIVIL RULE 107. _____ MJM

01/27/2003 241 DEFENDANTS TEXACO DEVELOPMENT CORPORATION AND TEXACO
AVIATION PRODUCTS, LLC'S ANSWER TO DEFENDANT
SAINT-GOBAIN PERFORMANCE PLASTICS CORPORATION'S
CROSS-CLAIM AGAINST ALL CO-DEFENDANTS. MJM

01/27/2003 242 DEFENDANTS TEXACO DEVELOPMENT CORPORATION AND TEXACO
AVIATION PRODUCTS, LLC'S ANSWER TO DEFENDANT HYDROCHEM
INDUSTRIAL SERVICES, INC.'S CROSSCLAIM FOR
INDEMNIFICATION AND/OR CONTRIBUTION AGAINST
CO-DEFENDANTS. MJM

01/27/2003 247 NOTICE OF OPPOSITION OF MOTIVA ENTERPRISES LLC TO
PLTF'S MOTION TO CONSOLIDATE. MJM

01/27/2003 250 LETTER DATED 01/27/2003 FROM MICHAEL K. TICHE, ESQ.
TO JUDGE SLIGHTS. DEFT BATTAGLIA MECHANICA, INC.
DOES NOT OPPOSE THE OLSON MOTION TO CONSOLIDATE. MJM

02/10/2003 253 NOTICE OF OPPOSITION OF TEXACO AVIATION PRODUCTS,
LLC, TEXACO DEVELOPMENT CORP., AND TEXACO, INC. TO
PLTF'S MOTION TO CONSOLIDATE TO BE HEARD ON MARCH 13,
2003. MJM

02/10/2003 254 DEFENDANT CONECTIVE OPERATING SERVICES COMPANY

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 23

02C-04-263		RESPONSE TO THE MOTION OF RONALD W. OLSON TO CONSOLIDATE. _____	MJM
02/12/2003	252	NOTICE OF SERVICE OF PLTF'S SUPPLEMENTAL ANSWERS TO INTERROGATORIES BY DEFT BATTAGLIA MECHANICAL, INC.	MJM
02/12/2003	270	DEFENDANT'S MOTION FOR PRO HAC VICE OF RICHARD HOLM, ESQ. (PA) ; JOSEPH GULA ESQ., LOCAL (JRS - 03/06/03).	ALX
02/14/2003	265	NOTICE OF OPPOSITION OF FISHER CONTROLS INTERNATIONAL, INC., TO THE PLTF'S MOTION TO CONSOLIDATE SHALL.	MJM
02/20/2003	264	OPPOSITION OF NORTHEAST CONTROLS, INC. TO PLTF'S MOTION TO CONSOLIDATE.	MJM
02/21/2003	255	NOTICE OF SUPPLEMENTAL STATEMENT AND EXHIBIT IN SUPPORT OF MOTION FOR ENTRY OF A PROTECTIVE ORDER FILED BY THE DEFT FISHER CONTROLS INTERNATIONAL, INC.'S MOTION FOR A PROTECTIVE ORDER AND SUPPLEMENT TO ITS MOTION FOR ENTRY OF A PROTECTIVE ORDER WILL BE HEARD ON FEBRUARY 24, 2003.	MJM
02/21/2003	256	NOTICE OF SERVICE THAT ON FEBRUARY 21, 2003 COPIES OF THE PLTF'S RESPONSE TO DAIKIN INDUSTRIES, LTD.'S REQUEST FOR PRODUCTION WERE SERVED TO ALL THE PARTIES' COUNSEL IN THIS CASE. _____	MJM
02/21/2003	257	NOTICE OF SERVICE THAT PLTF'S RESPONSE TO PRAXAIR, INC. REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS SENT TO ALL DEFT'S COUNSEL ON FEBRUARY 21, 2003.	MJM
02/21/2003	258	NOTICE OF SERVICE TO PLTF'S RESPONSE TO DEFT, PARSON ENERGY AND CHEMICALS GROUP, INC. REQUEST FOR PRODUCTION OF DOCUMENTS WERE SERVED TO THE COUSEL OF ALL THE DEFTS ON FEBRUARY 21, 2003.	MJM
02/21/2003	259	NOTICE OF SERVICE OF PLTF'S ANSWERS TO MOTIVA ENTERPRISES, LLC'S INTERROGATORIES WERE SENT TO ALL COUNSEL IN THIS MATTER ON FEBRUARY 21, 2003.	MJM
02/21/2003	260	NOTICE OF SERVICE OF PLTF'S RESPONSES TO MOTIVA ENTERPRISES, LLC'S REQUEST FOR PRODUCTION WERE SERVED TO ALL COUNSEL IN THIS MATTER ON FEBRUARY 21, 2003.	MJM
02/21/2003	261	NOTICE OF SERVICE OF PLTF'S ANSWER TO EXPERT INTERROGATORIES OF DEFT PRAXAIR, INC. TO ALL COUNSEL IN THIS MATTER WERE SENT ON FEBRUARY 21, 2003.	MJM
02/21/2003	262	NOTICE OF SERVICE OF PLTF'S ANSWERS TO INTERROGATORIES OF DEFENDANT, PARSON ENERGY AND CHEMICAL GROUP, INC. WERE SERVED TO ALL COUNSEL IN THIS MATTER ON FEBRUARY 21, 2003.	MJM

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 24

02C-04-263
02/21/2003 263 NOTICE OF SERVICE OF PLTF'S RONALD W. OLSON AND CAROL OLSON'S FIRST SET OF INTERROGATORIES DIRECTED TO DEFT PRAXAIR, INC. WERE SENT TO ALL THE COUNSEL IN THIS MATTER. MJM

02/24/2003 266 CIVIL MOTION HEARD.
DEFT.'S MOTION FOR A ENTRY OF A PROTECTIVE ORDER
DECISION: GRANTED. MJM

02/24/2003 248 SO ORDER, ON 02/24/2003 BY SLIGHTS, J. MJM

02/28/2003 267 NOTICE OF OPPOSITION OF NORTHEAST CONTROLS, INC. TO CONECTIV'S MOTION TO DISMISS. MJM

02/28/2003 268 NOTICE OF RESPONSE TO CONECTIV OPERATING SERVICES, INC.'S MOTION TO DISMISS THE THIRD-PARTY COMPLAINT OF NORTHEAST CONTROLS, INC. IN GREAT AMERICAN ASSURANCE COMPANY. MJM

03/05/2003 269 LETTER DATED 03/05/2003 FROM GREGORY INSKIP, ESQ. PROPOSING THE FOLLOWING SCHEDULE FOR DETERMINATION OF THE MOTION, TO DISMISS THE THIRD-PARTY COMPLAINT OF NORTHEAST CONTROLS, INC., BE MODIFIED:
GREAT AMERICAN SUBMISSION - FRIDAY, MARCH 28, 2003
NORTHEAST AND FISHER RESPONSES - FRIDAY, APRIL 11, 2003
ORAL ARGUMENT - WEEK OF APRIL 21, 2003 OR AT THE COURTS DIRECTION. MJM

03/06/2003 271 TRANSCRIPT FROM MOTION HEARING ON FEBRUARY 24, 2004. MJM

03/07/2003 272 REPLY BRIEF OF RONALD W. OLSON AND CAROL OLSON TO THE OPPOSITION TO THE OLSONS' MOTION TO CONSOLIDATE. MJM

03/07/2003 #270 SIGNED BY SLIGHTS, J. ON 03/06/03, SO ORDERED. ALK

03/13/2003 275 PLTF'S MOTION TO CONSOLIDATE TO BE HEARD.
DECISION: PLTF ARE TO FIND A WAY TRY BOTH MATTERS WITH ONE FAULT ALLOCATION. THE DEFENSE ARE TO CONSULT WITH THEIR CLIENTS AND SEE HOW ESTOPPLE WILL AFFECT A SECOND TRIAL. IN TWO WEEKS PARTIES WILL RESPONDE TO THE COURT INQUIRY. MJM

03/13/2003 273 SCHEDULING ORDER SIGNED BY SLIGHTS, J. MARCH 13, 2003
FILING MOTIONS ADD OR AMNED: JULY 16, 2003
DISCOVERY CUT-OFF: AUGUST 30, 2004
PLTF'S EXPERT REPORT: MARCH 1, 2004
DEFT'S EXPERT REPORT: JUNE 28, 2004
SUPPLEMENTAL EXPERT REPORTS: JULY 30, 2004
DISPOSITIVE MOTIONS: SEPTEMBER 13, 2004
RESPONSE BRIEFS: 30 DAYS
REPLY BRIEFS: 14 DAYS
DAUBERT HEARING AND ORAL ARGUMENT ON DISPOS: MAY NOT EXCEED TEN PAGES, EXCEPT UPON MOTION FOR CAUSE.
MEDIATION: TO BE CONDUCTED BY JULY 30, 2003 AND ADVISE

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 25

02C-04-253

THE COURT BY AUGUST 4, 2003.
INTERIM STATUS REPORT: AUGUST 16, 2003
MOTIONS IN LIMINE (PARTIES MAY EXCEED THE FOUR PAGE
LIMIT)

- 1.) OPENING BRIEF: JANUARY 12, 2005
- 2.) RESPONSE BRIEF: JANUARY 26, 2005
- 3.) REPLY BRIEF: FEBRUARY 2, 2003

PRETRIAL CONFERENCE: MARCH 2, 2003 AT 9:30 AM
PRETRIAL STP: FEBRUARY 25, 2003
JURY INSTRUCTIONS: APRIL 4, 2005
VOIR DIRE: APRIL 4, 2005
CALENDER CALL: APRIL 6, 2003
TRIAL: APRIL 11, 2005 - 30 DAYS

MJM

03/13/2003	274	STIPULATION TO THE FOLLOWING REVISED SCHEDULE FOR THE SUBMISSION OF BRIEFS (NOT TO EXCEED 15 PAGES) ON COSC'S AMENDED MOTION TO DISMISS THE THIRD-PARTY COMPLAINT OF NORTHEAST CONTROLS, INC.: GREAT AMERICAN SUBMISSION - FRIDAY, MARCH 28, 2003 NORTHEAST AND FISHER RESPONSES - FRIDAY, APRIL 11, 2003 COSC AND GREAT AMERICAN REPLIES - WEDNESDAY, APRIL 16, 2003 ORAL ARGUMENT - THURSDAY, APRIL 24, 2003 AT 2:00 PM. MJM	
03/13/2003		#274 SO ORDER, ON 03/13/2003 BY SLIGHTS, J.	MJM
03/19/2003	276	INTERNATIONAL FISHER CONTROLS'S ANSWER TO CROSSCLAIM AGAINST OTHER DEFT'S AND THIRD-PARTY DEFT'S ASSERTED BY TEXACO AVIATION PRODUCTS LLC (IN THE MOTIVA CASE).	MJM
03/19/2003	277	INTERNATIONAL FISHER CONTROLS'S ANSWER TO CROSSCLAIM ASSERTED BY PARSONS ENERGY AND CHEMICAL GROUP, INC. (IN THE GREAT AMERICAN CASE).	MJM
03/19/2003	278	INTERNATIONAL FISHER CONTROLS'S ANSWER TO CROSSCLAIM AGAINST OTHER DEFT'S AND THRID-PARTY DEFT'S ASSERTED BY TEXACO, INC. (IN THE GREAT AMERICAN CASE).	MJM
03/19/2003	279	INTERNATIONAL FISHER CONTROLS'S ANSWER TO CROSSCLAIM AGAINST ALL CO-DEFT'S AND ORIGINAL DEFT'S ASSERTED BY MOTIVA ENTERPRISES, LLC (IN THE GREAT AMERICAN CASE).	MJM
03/19/2003	280	INTERNATIONAL FISHER CONTROLS'S ANSWER TO CROSSCLAIM OF J.J. WHITE, INC. AGAINST ALL DEFT'S AND THIRD-PARTY DEFT'S FOR INDEMNIFICATION AND/OR CONTRIBUTION (IN THE GREAT AMERICAN CASE).	MJM
03/19/2003	281	INTERNATIONAL FISHER CONTROLS'S ANSWER TO CROSSCLAIM FOR INDEMNIFICATION AND/OR CONTRIBUTION AGAINST DEFT'S AND THIRD-PARTY CO-DEFT'S ASSERTED BY HYDROCHEM INDUSTRIAL SERVICES, INC. (IN THE PRAXAIR	

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 26

02C-04-263		CASE).	MJM
03/19/2003	282	INTERNATIONAL FISHER CONTROLS'S ANSWER TO CROSSCLAIM OF DAIKIN AMERICA, INC. AND DAIKIN INDUSTRIES, LTD. FOR INDEMNIFICATION AND/OR CONTRIBUTION(IN THE PRAXAIR CASE).	MJM
03/19/2003	283	INTERNATIONAL FISHER CONTROLS'S ANSWER TO CROSSCLAIM FOR CONTRIBUTION ASSERTED BY BATTAGLIA MECHANICAL, INC.(IN THE PRAXAIR CASE).	MJM
03/19/2003	284	INTERNATIONAL FISHER CONTROLS'S ANSWER TO CROSSCLAIMS AGAINST FISHER INTERNATIONAL, INC. ASSERTED BY NORTHEAST CONTROLS, INC.(IN THE PRAXAIR CASE).	MJM
03/19/2003	285	INTERNATIONAL FISHER CONTROLS'S ANSWER TO NEW MATTER CROSSCLAIMS ASSERTED BY PARSONS ENERGY AND CHEMICALS GROUP, INC (IN THE MOTIVA CASE).	MJM
03/19/2003	286	INTERNATIONAL FISHER CONTROLS'S ANSWER TO CROSSCLAIM BY CONECTIVE OPERATING SERVICES COMPANY AGAINST ALL DEFT'S FOR INDEMNIFICATION AND/OR CONTRIBUTION(IN THE MOTIVA CASE).	MJM
03/19/2003	287	INTERNATIONAL FISHER CONTROLS'S ANSWER TO CROSSCLAIMS FOR CONTRIBUTION ASSERTED BY BATTAGLIA MECHANICAL, INC.(IN THE MOTIVA CASE).	MJM
03/19/2003	288	INTERNATIONAL FISHER CONTROLS'S ANSWER TO CROSSCLAIM AGAINST OTHER DEFT'S AND THIRD-PARTY DEFT'S ASSERTED BY TEXACO AVIATION PRODUCTS LLC(IN THE GREAT AMERICAN CASE).	MJM
03/19/2003	289	INTERNATIONAL FISHER CONTROLS'S ANSWER TO CROSSCLAIM BY PRAXAIR, INC. AGAINST ALL DEFT'S AND THIRD PARTY DEFT'S FOR INDEMNIFICATION AND/OR CONTRIBUTION(IN THE GREAT AMERICAN CASE).	MJM
03/27/2003	290	NOTICE OF SERVICE THAT ON MARCH 27, 2003 COPIES OF THE PLTF'S ANSWERS TO INTERROGATORIES OF DEFT'S PRAXAIR, INC. WERE SENT TO ALL PARTIES IN THIS CASE.	MJM
03/27/2003	291	NOTICE OF SERVICE OF COPIES OF PLTF'S ANSWERS TO DAIKIN INDUSTRIES, LTD.'S INTERROGATORIES DIRECTED TO THE PLTF'S WERE SENT TO ALL PARTIES IN THIS MATTER.	MJM
03/27/2003	292	NCTICE OF SERVICE THAT ON MARCH 27, 2003 COPIES OF THE RESPONSE OF MOTIVA ENTERPRISES LLC TO FISHER CONTROLS INTERNATIONAL, INC.'S REQUEST FOR PRODUCTION WERE SENT TO PAUL A. BRADLEY, ESO.	MJM
04/04/2003	293	LETTER DATED 04/04/2003 FROM JOSEPH HANDLON, ESQ. DEAR JUDGE SLIGHTS: ENCLOSED ARE A COPY OF PROPOSED JURY INSTRUCTIONS TO ACT AS A ROAD MAP FOR THE JURY	

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 27

02C-04-263		TO RESOLVE THIS CASE.	MJM
04/07/2003	294	LETTER DATED 04/07/2003 FROM PAUL BRADLEY, ESQ. WROTE SLIGHTS, J. IN RESPONSE TO THE PLTF'S LETTER FROM APRIL 4, 2003 WHICH WAS IN REGARDS TO JURY INSTRUCTIONS.	MJM
04/08/2003	295	SUBSTITUTION OF COUNSEL; PLEASE ENTER THE APPEARANCE OF SKAN J. BELLEW ON BEHALF OF JENNIFER SCOLIARD AS LOCAL COUNSEL FOR PRAXAIR, INC.	MJM
04/11/2003	296	FISHER CONTROLS INTERNATIONAL, INC.'S REPLY TO GREAT AMERICAN ASSURANCE COMPANY'S RESPONSE TO CONECTIV OPERATING SERVICE COMPANY'S MOTION TO DISMISS THRID-PARTY CLAIMS IN TEH GREAT AMERICAN ASSURANCE COMPANY MATTER.	MJM
04/11/2003	297	DEFENDANT NORTHEAST CONTROLS, INC.'S REPLY TO GREAT AMERICAN'S RESP. TO CONECTIV OPERATING SERVICE COMPANY'S MOTION TO DISMISS.	MJM
04/16/2003	298	PLAINTIFF'S RESPONSE (LETTER) TO THE APRIL 1, 2003 LETTER SENT ON BEHALF OF PRAXAIR.	MJM
04/16/2003	299	REPLY BRIEF OF CONECTIV OPERATING SERVICES COMPANY IN SUPPORT OF ITS MOTIONS TO DISMISS THRID-PARTY COMPLAINTS OF NORTHEAST CONTROLS, INC. AND FISHER CONTROLS INTERNATIONAL, INC. IN THE GREAT AMERICAN INSURANCE COMPANY MATTER.	MJM
04/29/2003	300	THRID PARTY DEFT, DAIKIN AMERICA, INC. AND DAIKIN INDUSTRIES, LTD. TO CROSSCLAIMS OF TEXACO INC. IN THE MOTIVA ACTION.	
04/29/2003	301	ANSWER OF THRID PARTY DEFT. DAIKIN INDUSTRIES, LTD. TO CROSSCLAIMS OF TEXACO DEVELOPMENT CORPORATION IN THE PRAXAIR ACTION.	MJM
04/29/2003	302	ANSWER OF THRID PARTY DEFT, DAIKIN AMERICA, INC. AND DAIKIN INDUSTRIES, LTD. TO CROSSCLAIMS OF TEXACO DEVELOPMENT CORPORATION IN THE GREAT AMERICAN ACTION.	MJM
04/29/2003	304	ANSWER OF THIRD PARTY DEFTS., DAIKIN AMERICA, INC. AND SAIKIN INDUSTRIES, LTD. TO CROSSCLAIMS OF TEXACO DEVELOPMENT CORP IN THE MOTIVA ACTION.	MJM
04/30/2003	303	ANSWER OF THIRD PARTY DEFTS., DAIKIN AMERICAN, INC. AND DAIKIN INDUSTRIES, LTD. TO CROSSCLAIMS OF TEXACO AVIATION PRODUCTS LLC IN THE MOTIVA ACTION.	MJM
05/05/2003	305	NOTICE OF DEPOSITION OF THE PLTF'S RONALD OLSON AND CAROL OLSON WILL TAKE PLACE ON WEDNNESDAY, JUNE 4, 2003 AND THURSDAY JUNE 5, 2003 BEGINGING AT 9:00 AM.	MJM

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 28

02C-04-263 06/06/2003	306	NOTICE OF SERVICE THAT ON JUNE 6, 2003 COPIES OF THE PLTF'S RESP. TO DEFTS MOTIVA ENTERPRISES LLC AND PARSONS ENERGY AND CHEMICALS GROUP, INC.'S REQ. WERE SENT TO ALL PARTIES IN THIS CASE. MJM
06/09/2003	307	ANSWER OF DEFT, PRAXAIR, INC. TO THE CROSSCLAIM OF THIRD PARTY DEFT TEXACO DEVELOPMENT CORP. ASSERTED IN THE ANSWER OF THIRD PARTY DEFT, TEXACO DEVELOPMENT CORP. TO THE THIRD PARTY COMPLAINT OF NORTHEAST CONTROLS, INC. IN THE MOTIVA ENTERPRISES, LLC ACTION. MJM
06/19/2003	308	NOTICE OF SERVICE OF DEFT TEXACO DEVELOPMENT CORPORATION'S FIRST SET OF INTERROGATORIES AFFRESSED TO FISHER CONTROLS INTERNATIONAL, INC. WERE SENT TO ALL COUNSEL OF RECORD. MJM
06/19/2003	309	NOTICE OF SERVICE THAT ON JUNE 19, 2003 COPIES OF THE DEFT TEXACO DEVELOPMENT CORPORATION'S FIRST SET OF REQ. FOR PRODUCTION OF DOCUMENTS ADDRESSED TO FISHER CONTROLS INTERNATIONAL, INC. WERE SENT TO ALL COUNSEL OF THIS MATTER. MJM
06/26/2003	321	DEFENDANT'S MOTION FOR PRO HAC VICE OF MATTHEW MCLEES, ESQ. (PA) ; DELIA CLARK ESQ. LCCAL (JRS - 07/17/03)
06/28/2003	53	WRIT RETURNED - FIRST AMENDED SERVED TEXACO GLOBAL GAS AND POWER BY SERVING REGISTERED AGENT ON 6/12/2002.
07/01/2003	310	NOTICE OF SERVICE THAT ON JULY 1, 2003 COPIES OF THE PLTF'S RESPS. TO FIRST REQ. FOR PRODUCTION OF DOCUMENTS AND THINGS OF DEFT SAINT GOBAIN PERFORMANCE PLASTICS CORPORATION ADDRESSED TO ALL PARTIES; PLTF'S RESPS. TO CONTENTION INTERROG. AND REQ. FOR PRODUCTION OF DOCUMENTS AND THINGS OF DEFT SAINT GOBAIN PERFORMANCE PLASTICS CORPORATION ADDRESSED TO RONALD AND CAROL OLSON AND PLTF'S RESPS TO THE FIRST REQ. FOR PRODUCTION OF DOCUMENTS AND THINGS OF DEFT SAINT GOBAIN PERFORMANCE PLASTICS CORPORATION WERE SENT TO ALL COUNSELS OF RECORD. MJM
07/02/2003	311	NOTICE OF SERVICE THAT ON JULY 2, 2003 COPIES OF THE DEFT TEXACO DEVELOPMENT CORPORATION'S DOCUMENT FIRST SET OF REQUEST FOR PRODUCTION OF DOCUMENTS ADDRESSED TO PARSONS CORPORATION WERE SENT TO ALL COUNSEL OF RECORD.
07/02/2003	312	NOTICE OF SERVICE THAT ON JULY 2, 2003 COPIES OF THE DEFT TEXACO DEVELOPMENT CORPORATION'S DOCUMENTS FIRST SET OF INTERROGATORIES ADDRESSED TO PARSONS CORPORATION
07/10/2003	313	NOTICE OF SERVICE THAT ON JULY 10, 2003 COPIES OF THE PLTFs, RONALD OLSON AND CAROL OLSON'S, FIRST SET OF

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 29

02C-04-263

REQ. FOR PRODUCTION OF DOCUMENTS ADDRESSED TO FISHER CONTROLS INTERNATIONAL, INC. WERE SENT TO COUNSEL OF RECORD.

07/10/2003	314	NOTICE OF SERVICE THAT ON JULY 10, 2003 COPIES OF THE PLTF'S FIRST SET OF INTERROG., FIRST SET OF DOCUMENT REQ., AND FIRST SET OF REQ.FOR ADMISSIONS DIRECTED TO DEFT TEXACO DEVELOPMENT CORPORATION.
07/10/2003	322	NOTICE OF SERVICE THAT ON JULY 10, 2003 COPIES OF THE PLTF'S FIRST SET OF REQ. FOR PRODUCTION OF DOCUMENTS ADDRESSED TO NORTHEAST CONTROLS, INC. WERE SENT TO ALL COUNSEL OF RECORD.
07/10/2003	323	NOTICE OF SERVICE THAT ON JULY 10, 2003 COPIES OF THE PLTF'S FIRST SET OF INTERROG. ADDRESSED TO FISHER CONTROLS INTERNATIONAL, INC. WERE SENT TO ALL COUNSEL OF RECORD.
07/11/2003	316	NOTICE OF DEPOSITION OF PRAXAIR, INC. ON AUGUST 21, 2003 AT 10:00 AM.
07/11/2003	317	NOTICE OF DEPOSITION OF TEXACO DEVELOPMENT CORP. ON AUGUST 18, 2003 AT 10:00 AM.
07/11/2003	318	NOTICE OF DEPOSITION OF MOTIVA ENTERPRISES LLC ON AUGUST 19, 2003.
07/11/2003	319	NOTICE OF DEPOSITION OF CONECTIV OPERATING SERVICES COMPANY ("COSC") ON AUGUST 20, 2003 AT 10:00 AM.
07/11/2003	320	NOTICE OF DEPOSITION OF PARSONS ENERGY AND CHEMICALS, INC. ("PARSONS") ON AUG. 22, 2003 AT 10:00 AM
07/11/2003	329	ANSWER OF DEFT FISHER CONTROLS INTERNATIONAL, INC. TO ANY AND ALL CROSS-CLAIMS AND FUTURE CROSS-CLAIMS (IN THE GREAT AMERICAN ASSURANCE COMPANY MATTER)
07/11/2003	330	ANSWER OF DEFT FISHER CONTROLS INTERNATIONAL, INC. TO TEXACO DEVELOPMENT CORPORATION'S CROSSCLAIM AGAINST OTHER DEFTS AND THIRD-PARTY DEFTS (IN THE GREAT AMERICAN ASSURANCE COMPANY MATTER)
07/11/2003	331	ANSWER OF DEFT FISHER CONTROLS INTERNATIONAL, INC. TO TEXACO INC.'S CROSSCLAIM AGAINST OTHER DEFTS AND THIRD PARTY DEFTS (IN THE MOTIVA CASE)
07/11/2003	332	ANSWER OF DEFT FISHER CONTROLS INTERNATIONAL, INC. TO ANY AND ALL CROSS-CLAIMS AND FUTURE CROSS-CLAIMS (IN THE MOTIVA CASE)
07/11/2003	333	ANSWER OF DEFT FISHER CONTROLS INTERNATIONAL, INC. TO TEXACO DEVELOPMENT CORPORATION'S CROSSCLAIM AGAINST OTHER DEFTS AND THIRD-PARTY DEFTS (IN THE MOTIVA CASE)

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 30

02C-04-263 07/11/2003	334	ANSWER OF DEFT FISHER CONTROLS INTERNATIONAL, INC. TO TEXACO INC.'S CROSSCLAIM AGAINST OTHER DEFTS AND THIRD PARTY DEFTS (IN THE MOTIVA CASE)
07/11/2003	335	ANSWER OF DEFT FISHER CONTROLS INTERNATIONAL, INC. TO TEXACO DEVELOPMENT CORPORATION'S CROSSCLAIM AGAINST OTHER DEFT AND THIRD-PARTY DEFTS (IN THE MOTIVA CASE)
07/14/2003	315	INTERNATIONAL FISHER CONTROLS'S ANSWER TO TEXACO DEVELOPMENT CORPORATION'S CROSSCLAIM AGAINST OTHER DEFTS AND THIRD-PARTY DEFTS (IN THE PRAXAIR CASE)
07/14/2003	325	ANSWER OF DEFT FISCHER CONTROLS INTERNATIONAL, INC. TO CROSS CLAIM OF J.J. WHITE, INC. AGAINST ALL DEFTS AND THIRD-PARTY DEFTS FOR INDEMNIFICATION AND/OR CONTRIBUTION (IN THE PRAXAIR CASE).
07/14/2003	326	ANSWER OF DEFT FISHER CONTROLS INTERNATIONAL, INC. TO TEXACO AVIATION PRODUCTES LLC'S CROSSCLAIM AGAINST OTHER DEFT'S AND THIRD-PARTY DEFT'S (IN THE PRAXAIR CASE)
07/14/2003	327	ANSWER OF DEFT FISHER CONTROLS INTERNATIONAL, INC. TO TEXACO INC.'S CROSSCLAIM AGAINST OTHER DEFTS AND THIRD-PARTY DEFTS (IN THE PRAXAIR CASE)
07/14/2003	328	ANSWER OF DEFT FISHER CONTROLS INTERNATIONAL, INC. TO ANY AND ALL CROSSCLAIMS AND FUTURE CROSSCLAIMS (IN THE PRAXAIR CASE)
07/14/2003		LETTER DATED 07/14/2003 FROM PAUL BRADLEY, ESQ. TO SLIGHTS, J., ON BEHALF OF FISHER CONTROLS TO RENEW FISHER'S REQUEST THAT THE COURT DENY CONECTIV'S PENDING MOTON TO DISMISS THE THIRD-PARTY COMPLAINTS OF FISHER AND NORTHEAST CONTROLS, INC. AGAINST CONECTIV IN THE GREAT AMERICAN MATTER...
07/21/2003		#321 SIGNED BY SLIGHTS, J. ON 07/18/03, SO ORDERED.
07/22/2003	324	MEMORANDUM OF OPINION FROM JUDGE SLIGHTS. PLTF'S MOTION FOR CONSOLIDATION IS HEREBY DENIED. JUSTICE CANNOT BE ADMINISTERED FAIRLY BETWEEN THE PARTIES WITHOUT A MULTIPLICITY OF SUITS. THE OLSON ACTION WILL BE TRIED FIRST, THEN THE MOTIVA ACTION, THE PRAXAIR ACTION, AND THE GREAT AMERICAN ACTION IN A CONSOLIDATED TRIAL. A SCHEDULING CONFERENCE WILL BE CONVENED IN DUE COURSE TO FIX THE TRIAL SCHEDULES AND TRIAL RELATED DEADLINES.
07/25/2003	336	LETTER DATED 07/25/2003 FROM SLIGHTS, J. DEAR COUNSEL: PLS. TAKE NOTICE THAT A SCHEDULING CONF. HAS BEEN SCHEDULED IN THE ABOVE MATTER ON MONDAY, SEPTEMBER 8, 2003 AT 10:00 AM. THE PURPOSE OF THIS CONF. IS TO FIX TRIAL SCHEDULES AND TRIAL RELATED

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 31

02C-04-263

DEADLINES.

08/01/2003	337	NOTICE OF SERVICE THAT ON AUG. 1, 2003 COPIES OF THE PLTFS RONALD W. OLSON AND CAROL OLSON'S FIRST SET OF REQ. FOR PRODUCTION OF DOCUMENTS ADDRESSED TO PARSONS ENERGY & CHEMICAL GROUP, INC. WERE SENT TO COUNSEL OF RECORD.
08/01/2003	338	NOTICE OF SERVICE THAT ON AUGUST 1, 2003 COPIES OF THE PLTFS RONALD W. OLSON AND CAROL OLSON'S FIRST SET OF INTERROG. ADDRESSED TO PARSONS ENERGY & CHEMICALS GROUP, INC. WERE SENT TO ALL COUNSEL OF RECORD.
08/05/2003	339	LETTER DATED 08/05/2003 FROM JOSEPH HANDLON, ESQ. MEDIATION HAS BEEN DELAYED SO THE PARTIES CAN COMPLETE DISCOVERY.
08/08/2003	343	DEFENDANT FISHER CONTROLS' MOTION FOR SUMMARY JUDGMENT SCHEDULED FOR 09/08/2003 AT 10:00 A.M.
08/11/2003	340	DEFENDANT'S MOTION FOR SUMMARY JUDGMENT SCHEDULED FOR 09/08/2003. ***THIS WILL NOT BE HELD ON THIS DATE PER SHELLY BEANE ON BEHALF OF SLIGHTS, J. THE ATTY.'S WERE CALLED AND TOLD TO RENOTICE FOR ANOTHER DATE AND TIME.
08/11/2003	341	DEFENDANT'S MOTION FOR SUMMARY JUDGMENT SCHEDULED FOR 09/26/2003 AT 1:30 PM.
08/12/2003	342	DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT SCHEDULED FOR 09/26/2003 AT 1:30 PM DEFT FISHER CONTROLS INTERNATIONAL, INC.'S MOTION.
08/12/2003	346	NOTICE OF SERVICE OF RESPONSES TO THIRD-PARTY PLTF FISHER CONTROLS INTERNATIONAL, INC.'S FIRST SET OF INTERROGS AND REQUESTS FOR PRODUCTION TO THIRD-PARTY DEFT HYDROCHEM INDUSTRIAL SERVICES, INC.
08/13/2003	344	LETTER DATED 08/13/2003 FROM SLIGHTS, J. RE: MS. GATTUSO'S CLIENTS CONCERNS.
08/13/2003	345	VACTION OF NOTICE OF DEPOSITION OF THE FOLLOWING TEXACO DEVELOPMENT CORP.; MOTIVA ENTERPRISES, LLC.; CONNECTIV OPERATING SERVICES COMPANY; PRAXAIR, INC.; PARSONS ENERGY AND CHEMICALS, INC.
08/21/2003	347	ANSWER OF DAIKIN INDUSTRIES LIMITED AND DAIKIN AMERICA INC. TO CROSSCLAIM OF CONNECTIV OPERATING SERVICES COMPANY IN THE GREAT AMERICAN CASE.
08/21/2003	348	ANSWER OF MOTIVA ENTERPRISES LLC TO CONNECTIVE OPERATING SERVICES COMPANY'S CROSSCLAIM TO FISHER CONTROLS INTERNATIONAL, INC.'S AMENDED THIRD-PARTY COMPLAINT(IN THE GREAT AMERICAN CASE).

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 32

02C-04-263 08/22/2003	349	ANSWER OF MOTIVA ENTERPRISES LLC TO CONECTIV OPERATING SERVICES COMPANY'S CROSSCLAIM TO NORTHEAST CONTROLS INTERNATIONAL, INC'S AMENDED THIRD-PARTY COMPLAINT (IN THE GREAT AMERICAN CASE)
08/29/2003	350	NOTICE OF SERVICE OF DEFT TEXACO DEVELOPMENT CORP'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS ADDRESSED TO PRAXAIR, INC.
08/29/2003	351	NOTICE OF SERVICE OF DEFT TEXACO DEVELOPMENT CORP'S FIRST SET OF INTERROGS ADDRESSED TO PRAXAIR, INC.
09/05/2003	352	ENTRY OF APPEARANCE OF JOANNA REIVER ON BEHALF ON THE D DEFT SAINT-GOBAIN PERFORMANCE PLASTICS CORP.
09/08/2003	357	SCHEDULING CONFERENCE
09/08/2003	358	ANSWRE OF DEFT SAINT GOBAIN PLASTICS CORPORATION TO ANY AND ALL PENDING AND FUTURE CROSSCLAIMS
09/10/2003	353	<p>SCHEDULING ORDER SIGNED BY SLIGHTS, J. FILING OF MOTIONS TO ADD OR AMEND: 9/30/03 DISCOV. CUT-OFF: 12/20/04 PLTF'S EXPERT REPORTS: 7/1/04 DEFT'S AND THIRD PARTY EXPERT REPORTS: 10/28/04 SUPPLEMENTAL EXPERT REPORTS: 11/30/04 FILING OF DISPOSITIVE MOTIONS: 1/13/05 RESP BRIEFS: 30 DAYS REPLY BRIEFS: 14 DAYS DAUBERT HEARING: 3/10/05 @ 9:30 A.M. MEDIATION: 12/31/03 STATUS REPORT: 1/15/04 MOTION IN LIMINE:</p> <p>(1) OPENING BRIEF 5/12/05 (2) RESP. BRIEF: 5/26/05 (3) REPLY BRIEF: 6/2/05 (4) ORAL ARGUMENT: TBA</p> <p>PRETRIAL CONF.: 7/12/05 AT 9:30 PRETRIAL STIP: 7/705 JURY INST/VOIR DIRE: 8/8/05 CALENDAR CALL: 8/10/05 TRIAL: 8/15/05 - 30 (THIRTY) DAY JURY TRIAL</p>
09/10/2003	355	ANSWER TO CONECTIV OPERATING SERVICES COMPANY'S CROSS-CLAIMS AGAINST GREAT AMERICAN ASSURANCE COMPANY AS RELATED TO THE THIRD-PARTY COMPLAINT OF FISHER CONTROLS INTERNATIONAL, INC.
09/10/2003	356	ANSWER TO CONECTIV OPERATING SERVICES COMPANY'S CROSS-CLAIMS AGAINST GREAT AMERICAN ASSURANCE COMPANY AS RELATED TO THE THRID-PARTY COMPLAINT OF NORTHEAST CONTROLS, INC.
09/15/2003	354	NOTICE OF SERVICE THAT ON COPIES OF THE DEFT TEXACO DEVELOPMENT CORPORATION'S OBJECTIONS AND RESPS TO

EXHIBIT 12
(part 2)

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 33

02C-04-263

PLTF'S FIRST SET OF INTERROG., FIRST SET OF DOCUMENT REQ., AND FIRST SET OF REQ. FOR ADMISSION WERE SENT TO ALL COUNSEL OF RECORD.

09/15/2003 390 DEFENDANT'S MOTION FOR PRO HAC VICE OF DANIEL GUNTER, ESQ. (WA) ; PAUL BRADLEY ESQ. LOCAL (JRS - 10/23/03).

09/16/2003 359 ANSWER OF THIRD PARTY DEFTS DAIKIN AMERICAN, INC. AND DAIKIN INDUSTRIES, LTD. TO THE CROSSCLAIMS OF SAINT GOBAIN PERFORMANCE PLASTIC CORPORATION IN THE GREAT AMERICAN ACTION.

09/16/2003 360 ANSWER OF THIRD PARTY DEFTS DAIKIN AMERICAN, INC. AND DAIKIN INDUSTRIES, LTD. TO THE CROSSCLAIMS OF SAINT GOBAIN PERFORMANCE PLASTIC CORPORATION IN THE MOTIVA ACTION.

09/17/2003 361 LETTER DATED 09/17/2003 FROM PAUL A. BRADLEY TO JUDGE SLIGHTS.
RE: THE BRIEFING SCHEDULE FOR DISPOSITIVE MOTIONS.

09/17/2003 362 ANSWER OF DEPT TEXACO DEVELOPMENT CORPORATION AND THIRD-PARTY DEFTS TEXACO INC. AND TEXACO AVIATION PRODUCTS, LLC. TO CROSS-CLAIMS OF DEPT CONECTIV OPERATING SERVICES COMPANY BASED UPON THE AMENDED THIRD PARTY COMPLAINT OF FISHER CONTROLS INTERNATIONAL INC. IN THE GREAT AMERICAN MATTER.

09/17/2003 363 ANSWER OF MOTIVA ENTERPRISES LLC TO CROSSCLAIM OF SAINT-GOBAIN PERFORMANCE PLASTICS CORPORATION RELATING TO THE THIRD-PARTY COMPLAINT OF NORTHEAST CONTROLS, INC.

09/17/2003 364 ANSWER OF MOTIVA ENTERPRISES LLC TO CROSSCLAIM OF SAINT-GOBAIN PERFORMANCE PLASTICS CORPORATION RELATING TO THE SECOND AMENDED THRID-PARTY COMPLAINT OF FISHER CONTROLS INTERNATIONAL, INC.

09/22/2003 365 RESPONSE OF PRAXAIR, INC. TO THE MOTION OF DEPT FISHER CONTROLS INTERNATIONAL, INC. FOR PARTIAL SUMMARY JUDGMENT.

09/22/2003 366 GREAT AMERICAN ASSURANCE COMPANY AS SUBROGEE OF PRAXAIR, INC.'S OPPOSITION TO FISHER CONTROLS INTERNATIONAL, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON NEGLIGENCE CLAIM.

09/22/2003 367 GREAT AMERICAN ASSURANCE COMPANY AS SUBROGEE OF MOTIVA ENTERPRISES LLC'S OPPOSITION TO FISHER CONTROLS INTERNATIONAL, INC.'S MOTION FOR SUMMARY JUDGMENT ON CONTRACT AND NEGLIGENCE CLAIM.

09/24/2003 368 LETIER DATED 09/24/2003 FROM SLIGHTS, J.

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 34

02C-04-263

TO ALL COUNSEL.
RE: MOTION FOR SUMMARY JUDGMENT ORIG. SCHEDULED FOR
SEPT. 25, 2003. THE NEW DATE AND TIME IS 12/9/03 AT
2:00 P.M.

09/25/2003	369	ANSWER OF DEFT AND THRID-PARTY DEFT CONECTIV OPERATING SERVICES COMPANY TO CROSS-CLAIMS OF SAINT-GOBAIN PERFORMANCE PLASTICS CORPORATION.
09/26/2003	371	NOTICE OF SERVICE, PRAXAIR, INC.'S RESPONSE TO PLTF'S RONALD W. OLSON AND CAROL OLSON'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND INTERROGA DIRECTED TO DEFT'S PRAXAIR, INC.
09/30/2003	376	ANSWRE OF DEFT PRAXAIR, INC., TO THE CROSSCLAIMS OF THRID PARTY DEFT ST. GOBAIN PERFORMANCE PLASITCS CORPORATION ASSERTED IN RESP. TO NORTHEAST CONTROL'S THIRD PARTY COMPLAINT IN THE MOTIVA ENTERPRISES ACTION.
09/30/2003	377	ANSWER OF THIRD-PARTY DEFT, PRAXAIR, INC., TO THE CROSSCLAIMS OF THIRD PARTY DEFT ST. GOBAIN PERFORMANCE PLASTICS CORPORATION ASSERTED IN RESP TO NORTHEAST CONTROL, INC.'S THIRD PARTY COMPLAINT IN THE GREAT AMERICAN ACTION.
09/30/2003	378	ANSWER OF DEFT, PRAXAIR, INC., TO THE CROSSCLAIMS OF THRID PARTY DEFT ST. GOBAIN PERFORMANCE PLASTICS CORPORATION ASSERTED IN RESPONSE TO FISHER CONTROLS INTERNATIONAL, INC.'S THIRD PARTY COMPLAINT IN THE MOTIVA ENTERPRISES ACTION.
10/01/2003	370	MOTION OF MOTIVA ENTERPRISES LLC TO AMENDED ITS ANSWER. SCHEDULED FOR OCT. 20, 2003, AT 9:00 AM.
10/01/2003	380	NOTICE OF DEPOSITION OF BHIM BAKHOO ON 11/19/03 AT 9:30 AM; DAVID GOOD ON 11/20/03 AT 9:30 AM; ROGER HAWLEY ON 11/21/03 AT 9:30 AM; AND LBN SWITILSKI ON DEC. 8, 2003, AT 9:30 AM.
10/01/2003	381	FISHER CONTROLS INTERNATIONAL, INC.'S MOTION TO COMPEL DISCOVERY RESPONSES FROM PRAXAIR, INC. SCHEDULED FOR OCT. 20, 2003 AT 9:0 AM.
10/02/2003	379	NOTICE OF DRPOSITION OF RONALD W. OLSON ON OCT. 27, 2003 AT 9:30 AM.
10/03/2003	372	AMENDED NOTICE OF DEPOSITION OF RONALD W. OLSON AS TO LOCATION ONLY.
10/06/2003	374	REPLY MEMORANDUM IN SUPPORT OF MOTION OF DEFT FISHER CONTROLS INTERNATIONAL, INC., FOR SUMMARY JUDGMENT OF DISMISSAL OF NEGLIGENCE CLAIM ASSERTED BY PLTF PRAXAIR, INC.

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 35

32C-04-263
10/06/2003 375 REPLY MEMORANDUM IN SUPPORT OF MOTION OF DEF FISHER CONTROLS INTERANTIONAL, INC., FOR SUMMARY JUDGMENT ON CLAIMS ASSERTED BY PLTF MOTIVA ENTERPRISES, LLC.

10/07/2003 373 LETTER DATED 10/07/2003 FROM SLIGHTS, J.
TO ALL COUNSEL OF RECORD.
PLS. TAKE NOTICE THAT A STATUS CONFERANCE HAS BEEN SCHEDULED IN THE ABOVE MATTER FOR TUESDAY, OCTOBER 28, 2003 AT 9:30 AM.

10/10/2003 383 DEFENDANT'S MOTION TO COMPEL
SCHEDULED FOR 10/28/2003

10/24/2003 382 ANSWER OF FISHER CONTROLS INTERATIONAL, INC. TO SAINT GOBAIN'S CROSS-CLAIMS AGAINST ALL CO-DEFT'S IN THE PRAXAIR CASE.

10/16/2003 391 NOTICE OF SERVICE THAT ON OCT. 16, 2003 COPIES OF THE DEFT TEXACO DEVELOPMENT CORPORATION'S FIRST SET OF INTERROG. ADDRESSED TO SAINT-GOBAIN PERFORMANCE PLASTICS CORPORATION WERE SENT TO ALL COUNSEL OF THE RECORD.

10/16/2003 392 NOTICE OF SERVICE THAT THE DEFT TEXACO DEVELOPMENT CORPORATION'S FIRST SET OF INTERROG. ADDERSSSED TO DAIKIN INDUSTRIES, LTD WERE SENT TO CALL COUNSEL OF THE RECORD ON OCR 16, 2003.

10/16/2003 393 NOTICE OF SERVICE THAT ON OCTOBER 16, 2003 COPIES OF THE DEFT TEXACO DEVELOPMENT CORPORATION'S FIRST SET OF REQ. FOR PRODUCTION OF DOCUMENTS ADDRESSED TO DAIKIN INDUSTRIES, LTD. WERE SENT TO ALL COUNSEL OF RECORD.

10/16/2003 394 NOTICE OF SERVICE THAT ON OCTOBER 16, 2003 COPIES OF THE DEFT TEXACO DEVELOPMENT CORPORATION'S FIRST SET OF REQ. FOR PRODUCTION OF DOCUMENTS ADDRESSED TO SAINT GOBAIN PERFORMANCE PLASTICS CORPORATION WERE SENT TO ALL COUNSEL OF RECORD.

10/17/2003 389 LETTER DATED 10/17/2003 FROM JOSEPH HANDLON
DEAR JUDGE SLIGHTS:
PURSUANT TO YOUR HONOR'S INSTRUCTIONS AT THE LAST STATUS CONFERENCE IN THE ABOVE MATTER, WE RESPECTFULLY SUBMIT THE AGENDA BELOW FOR THE UPCOMING STATUS CONFERENCE IN THIS MATTER SCHEDULED FOR OCTOBER 28, 2300.
1.DOCUMENT PRODUCTION -- A DISCUSSION OF PARTIES REGARDING PRODUCTION OF DOCUMENTS PRODUCED BY MR. OLSON AND CONECTIV TO TEXACO AND MOTIVA.
2. DEPOSITIONS -- IDENTITY OF WITNESSES TO BE DEPOSED DURING THE DESIGNATED TIME SLOTS; DISPUTES, IF ANY ARE REMAINING, OVER THE AVAILABILITY OF WITNESSES.
3. THE ISSUES RAISED IN FISHER'S SEPT. 17, 2003, LETTER TO THE COURT.

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 36

02C-04-263

4. SUBSTITUTION OF TEXACO, INC. FOR TEXACO GLOBAL GAS AND POWER -- THE OLSONS AND TEXACO HAVE REACHED AN AGREEMENT REGARDING SUBSTITUTION AND HAVE CIRCULATED THE STIPULATION FOR SIGNATURE BY THE PARTIES. ALTHOUGH SEVERAL PARTIES HAVE SIGNED THE STIPULATION, WE STILL HAVE NOT RECIEVED SIGNED COPIES FROM THE PARTIES

5. STATUS OF THE MOTIVA ACTION.

6. MOTIVA'S MOTION TO AMEND AND FISHER'S MOTION TO COMPEL PRAXAIR.

10/20/2003 384 DEFT FISHER CONTROLS INTERNATIONAL, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON WARRANTY CLAIMS ASSERTED BY GREAT AMERICAN ASSURANCE COMPANY SCHEDULED FOR DECEMBER 9, 2003, AT 2:00 P.M.

10/20/2003 385 DEFT FISHER CONTROLS INTERNATIONAL, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON NEGLIGENCE CLAIM ASSERTED BY PLTF GREAT AMERICAN ASSURANCE COMPANY SCHEDULED FOR DEC. 9, 2003, AT 2:00 PM.

10/20/2003 386 FISHER CONTROLS INTERNATIONAL, INC.'S MOTION FOR SUMMARY JUDGMENT ON ALL CLAIMS ASSERTED BY PLTF GREAT AMERICAN ASSURANCE COMPANY SCHEDULED FOR DEC. 9, 2003, AT 2:00 PM.

10/20/2003 387 FISHER CONTROLS INTERNATIONAL, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON WARRANTY AND CONTRACT CLAIMS ASSERTED BY PLTF PRAXAIR, INC. SCHEDULED FOR DEC. 9, 2003, AT 2:00 PM.

10/20/2003 389 EXHIBITS REFERENCED IN MOTION FOR SUMMARY JUDGMENT FILED BY FISHER CONTROLS INTERNATIONAL, INC., ON OCTOBER 20, 2003.

10/24/2003 395 RESPONSE OF PRAXAIR, INC. TO THE MOTION TO COMPEL DISCOVERY RESPONSES OF DEFT, FISHER CONTROLS INTERNATIONAL, INC.

10/27/2003 396 BENCH MEMORANDUM.
SETTING FORTH A BRIEF OVERVIEW OF THE FACTUAL BACKGROUND TO THIS CASE.

10/27/2003 #390 SIGNED BY SLIGHTS, J. ON 10/27/03, SO ORDERED.

10/28/2003 397 CIVIL MOTION HEARD.
DEFT/3RD PARTY PLTF FISHER CONTROLS INTERNATIONAL, INC.'S MOTION TO COMPEL DISCOVERY RESPONSES FROM PRAXAIR, INC.
DECISION: GRANTED DOCUMENTS RELATIVE TO PRIOR FIRES ARE TO BE PRODUCED WITH IN 2 WEEKS, OR BY 11/11/03.
DEFT MOTIVA'S MOTION TO AMENDED THEIR ANSWER
DECISION: GRANTED, UNOPPOSED.

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 37

02C-04-263

10/28/2003 398

SO ORDER, ON 10/28/2003 BY SLIGHTS, J. THAT THE FOREGOING MOTION OF MOTIVA ENTERPRISES LLC TO AMEND ITS ANSWER TO PLTF'S COMPLAINT HAVING BEEN HEARD AND CONSIDERED. NOW, THEREFORE, IT IS SO ORDERED THAT MOTIVA ENTERPRISES LLC IS GRANTED LEAVE TO AMEND ITS ANSWER, AS SET FORTH IN EXHIBIT A ATTACHED TO THE FOREGOING MOTION, AND IT IS FURTHER ORDERED THAT THE AMENDED ANSWER OF MOTIVA ENTERPRISES LLC IS DEEMED TO HAVE BEEN SERVED ON ALL PARTIES ON THE DATE OF THIS ORDER.

10/28/2003 397

OFFICE CONFERENCE VARIOUS COUNSEL ATTENDED A LIST OF THE COUNSEL WHO APPEARED IS ATTACHED TO THIS DOCKET ENTRY.
DEPOSITION OF MR. OLSON - IS GOING INTO ITS FIFTH DAY MY. ROBBINS DOES NOT LIKE THE QUESTIONS BEING ASKED AS THEY ARE TOO SPECIFIC AND ARE ONES THAT SHOULD BE ASKED TO AN EXPERT. HE DOES NOT LIKE WHERE THIS DEPOSITION IS GOING. MR. ROBBINS ALSO FEELS THAT HIS CLIENT IS BEING BADGERED.
DEPOSITION WILL GO TODAY UNTIL 4:30 PM AND IF NEEDED BE TOMORROW UNTIL 12:00 NN.
IF FURTHER DEPOSITION OF MR. OLSON NEEDS TO BE TAKEN A MOTION NEEDS TO BE FILED.
S/C - NOTICE ALL NON DISPOSITIVE MOTIONS FOR ROUTINE MOTION DAYS. AND JUDGE SLIGHTS WILL DECIDE IF THEY NEED TO BE RE-SCHEDULED FOR ANOTHER DATE AND TIME COUNSEL MIGHT BE ABLE TO START FILING UNDER THE NEW E-FILING SYSTEM.

10/28/2003 400

NOTICE: A STATUS CONFERENCE HAS BEEN SCHEDULED IN THE ABOVE MATTER ON TUES., 1/20/2004 AT 9:30 A.M. THE PARTIES SHOULD AGENDA ITEMS AND SUBMIT TO THE COURT ON OR BEFORE 1/16/04. ANY PROPOSED ORDERS GENERATED AS A RESULT OF THE LAST STATUS CONFERENCE SHOULD BE SUBMITTED TO THE COURT WITHIN 2 WEEKS UNLESS OTHERWISE SPECIFIED AT THE CONFERENCE.

10/30/2003 399

LETTER DATED 10/29/2003 FROM PAUL BRADLEY, ESQ. TO SLIGHTS, J., ENCLOSED IS AN ORDER REFLECTING YOUR DECISION ON FISHER CONTROLS INTERNATIONAL, INC.'S MOTION TO COMPEL. IT WAS APPROVED AS TO FORM BY PRAKAR COUNSEL. (JRS, 10/30/03)

10/30/2003 401

NOTICE OF SERVICE THAT ON OCT. 30, 2003 COPIES OF THE DEFT' TEXACO DEVELOPMENT CORPORATION'S FIRST SET OF INTERROG. ADDRESSED TO DAIKIN AMERICA, INC. WERE SENT TO ALL COUNSEL OF THE RECORD.

10/30/2003 402

NOTICE OF SERVICE THAT ON OCT. 30, 2003 COPIES OF THE DEFT TEXACO DEVELOPMENT CORPORATION'S FIRST SET OF REQ. FOR PRODUCTION OF DOCUMENTS ADDRESSED TO DAIKIN AMERICA, INC. WERE SENT TO ALL COUNSEL OF THE RECORD.

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 38

02C-04-263
10/30/2003 408 SO ORDER, ON 10/30/2003 BY SLIGHTS, J., THAT THE FOREGOING MOTION OF FISHER CONTROLS INTERNATIONAL, INC. TO COMPEL DISCOVERY RESPONSES FROM PRAXAIR, INC. AND PRAXAIR, INC.'S RESPONSE AND ORAL ARGUMENT HAVING BEEN HEARD AND CONSIDERED, IS GRANTED AND PRAXAIR, INC. SHALL: A). PRODUCE ANY AND ALL DOCUMENTS REQUESTED IN FISHER CONTROLS INTERNATIONAL, INC.'S REQUEST FOR PRODUCTION NOS. 11,12,47,64,76 AND 77 NO LATER THAN 11/11/2003, OR B). SHALL CERTIFY IN A PLEADING THAT IT DOES NOT HAVE IN ITS POSSESSION, CUSTODY, OR CONTROL ANY OF THE DOCUMENTS REQUESTED IN REQUEST FOR PRODUCTION NOS. 11, 12,47,64,76 AND 77.

10/31/2003 416 STIPULATION OF SUBSTITUTION AND DISMISSAL WITH PREJUDICE, ANY AND ALL CLAIMS AGAINST DEFT TEXACO AVIATION PRODUCTS, LLC. THE PARTIES FURTHER STIPULATE AND AGREE THAT THE DEFT NAMED AS TEXACO GLOBAL GAS AND POWER SHALL BE DISMISSED FROM THIS ACTION, WITH PREJUDICE, AND THAT TEXACO INC SHALL BE SUBSTITUTED AS A DEFT IN THIS MATTER FOR TEXACO GLOBAL GAS AND POWER.. TEXACO INC. SHALL ANSWER ALLEGATIONS NO LATER THAN 30 DAYS AFTER THE DATE THE LAST PARTY SIGNS THIS STIP.

11/07/2003 407 NOTICE OF WITHDRAWAL OF COUNSEL C. CURTIS STAROPOLI, ESQ. AS COUNSEL FOR SAINT-GOBAIN PERFORMANCE PLASTICS CORPORATION.

11/10/2003 403 NOTICE OF DEPOSITION OF CORP REPRESENTATIVE OF FISHER CONTROLS INTERNATIONAL DUCES TECUM ON 12/13/03.

11/12/2003 404 NOTICE OF SERVICE- PRAXAIR INC'S RESPONSE TO DEFT TEXACO DEVELOPMENT CORP'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND PRAXAIR, INC'S OBJECTIONS AND ANSWERS TO DEFT TEXACO DEVELOPMENT CORP'S FIRST SET OF INTERROGATORIES.

11/12/2003 405 DEFENDANT'S MOTION FOR PRO HAC VICE OF SHERIDAN BLACK, ESQ. (PA) ; JOANNA REIVER, ESQ. LOCAL (JRS - 11/19/03).

11/17/2003 406 LETTER DATED 11/13/2003 FROM PAUL BRADLEY, ESQ. TO PROTHONOTARY, WITH ORDER ATTACHED TO PLACE THE ABOVE REFERENCED CASES (02C-04-263, 02C-05-168, 02C-05-169 AND 02C-05-190) ON LEXIS-NEXIS FILE AND SERVE.

11/18/2003 409 RENOTICE OF DEPOSITION OF ROGER HAWLEY, 11/20/03.

11/18/2003 410 RENOTICE OF DEPOSITION OF ROGER HAWLEY ON 11/20/2003 AT 9:30AM

11/18/2003 417 OBJECTION TO SCOPE OF NOTICE OF DEPOSITION OF ROGER HAWLEY.

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 39

02C-04-263 11/20/2003		#405 SIGNED BY SLIGHTS, J. ON 11/20/03, SO ORDERED.
11/21/2003	411	PLAINTIFF'S RESPONSE IN OPPOSITION TO FISHER CONTROLS INTERNATIONAL, INC.'S MOTION FOR SUMMARY JUDGMENT SEEKING DISMISSAL OF PRAXAIR CONTRACT CLAIMS.
11/21/2003	412	DEFENDANT PRAXAIR, INC. RESPONSE TO THE MOTION OF DEFT. FISHER CONTROLS INTERNATIONAL, INC. FOR PARTIAL SUMMARY JUDGMENT ON WARRANTY AND CONTRACT CLAIMS ASSERTED BY PLTF., PRAXAIR, INC.
11/24/2003	413	PLAINTIFF GREAT AMERICAN ASSURANCE COMPANY'S RESPONSE IN OPPOSITION TO FISHER CONTROL'S INTERNATIONAL, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON NEGLIGENCE CLAIM.
11/24/2003	414	PLAINTIFF, GREAT AMERICAN ASSURANCE COMPANY RESPONSE IN OPPOSITION TO FISHER CONTROLS INTERNATIONAL, INC.'S MOTION FOR SUMMARY JUDGMENT BASED ON ALLEGED ADDITIONAL INSURED STATUS.
11/26/2003	415	NOTICE OF DEPOSITION DUCES TECUM PURSUANT TO SUPERIOR COURT RULE 30(B) (6) OF FISHER CONTROLS INTERNATIONAL ON 12/13/03.
11/26/2003	418	SO ORDER, ON 11/25/03 BY RIDGELY, PJ., THAT EFFECTIVE 12/1/2003, ALL PARTIES SHALL SERVE AND FILE ALL PLEADINGS AND OTHER PAPERS WITH THE COURT IN COMPLIANCE WITH SUPERIOR COURT 79.1. PLEADINGS FILED THROUGH 11/30/2003 WILL NOT BE PLACED ON THE FILE AND SERVE SYSTEM.
12/02/2003	419	NOTICE TO ALL COUNSEL OF RECORD FROM SLIGHTS, J. PLEASE TAKE NOTICE THAT THE COURT IS RESCHEDULING ALL MOTIONS FOR SUMMARY JUDGMENT FROM DECEMBER 9, 2003 TO TUESDAY, JANUARY 20, 2004 AT 5:30AM.
12/03/2003	420	PLTF'S' RESPONSE TO THE MOTIONS FOR PARTIAL SUMMARY JUDGMENT ON WARRANTY AND CONTRACT CLAIMS ASSERTED BY PLTF. PRAXAIR, INC.
12/04/2003	421	RE-NOTICE OF DEPOSITION *DUCES TECUM* OF FISHER CONTROLS INTERNATIONAL ON DECEMBER 15, 2003 BY DEFT. BATTAGLIA MECHANICAL, INC.
12/10/2003	422	DEFT. PRAXAIR INC'S MOTION FOR PRO HAC VICE OF JAMES D. GOLKOW, ESQ.
12/11/2003	423	RE-NOTICE OF DEPOSITION OF FISHER CONTROLS INT'L ON DECEMBER 15, 2003 BY DEFT. TEXACO DEVELOPMENT CORP.
12/11/2003	424	NOTICE OF DEPOSITION OF THE FOLLOWING INDIVIDUALS ON DECEMBER 12, 2003 BY DEFT. TEXACO DEVELOPMENT CORP; - MARK PAOLUCCI, NORTHEAST CONTROLS

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 40

02C-04-263

- DEFT CAPPELLINI, NORTHEAST CONTROLS

12/11/2003	425	RE-NOTICE OF DEPOSITION *DUCES TECUM* OF FISHER CONTROLS INTERNATIONAL ON DECEMBER 15, 2003 BY DEFT. BATTAGLIA MECHANICAL, INC.
12/22/2003	426	REPLY MEMORANDUM IN SUPPORT OF DEFT. FISHER CONTROLS INTERNATIONAL, INC., MOTION FOR PARTIAL SUMMARY JUDGMENT ON WARRANTY AND CONTRACT CLAIMS ASSERTED BY PLTF. PRAXAIR, INC. (FISHER REPLY TO OLSON'S RESPONSE ON THE "PRAXAIR WARRANTY" MOTION)
12/22/2003	427	REPLY MEMORANDUM IN SUPPORT OF DEFT. FISHER CONTROLS INTERNATIONAL, INC., MOTION FOR PARTIAL SUMMARY JUDGMENT ON WARRANTY AND CONTRACT CLAIMS ASSERTED BY PLTF. PRAXAIR, INC. (THE "GREAT AMERICAN WARRANTY" REPLY)
12/22/2003	428	REPLY MEMORANDUM IN SUPPORT OF DEFT. FISHER CONTROLS INTERNATIONAL, INC., MOTION FOR PARTIAL SUMMARY JUDGMENT ON WARRANTY AND CONTRACT CLAIMS ASSERTED BY PLTF. PRAXAIR, INC. (THE "PRAXAIR WARRANTY" REPLY)
12/22/2003	429	REPLY MEMORANDUM IN SUPPORT OF FISHER CONTROLS INTERNATIONAL, INC., MOTION FOR SUMMARY JUDGMENT AS TO NEGLIGENCE CLAIM ASSERTED BY PLTF. GREAT AMERICAN ASSURANCE COMPANY, INC. (THE "GREAT AMERICAN NEGLIGENCE" REPLY)
12/22/2003	430	REPLY MEMORANDUM IN SUPPORT OF DEFT. FISHER CONTROLS INTERNATIONAL, INC., MOTION FOR SUMMARY JUDGMENT ON ALL CLAIMS ASSERTED BY PLTF. GREAT AMERICAN ASSURANCE COMPANY (FISHER'S "ADDITIONAL INSURED" REPLY)
12/29/2003	431	NOTICE OF SERVICE OF SUPPLEMENTAL EXHIBITS REFERENCED IN REPLY MEMORANDA FILED BY FISHER CONTROLS INT'L, INC. IN SUPPORT OF ITS MOTIONS FOR SUMMARY JUDGMENT.
01/09/2004	432	FISHER CONTROLS INT'L, INC.'S MOTION TO STRIKE AFFIDAVIT OF BHIM BHAKOO IN SUPPORT OF PRAXAIR'S RESPONSE TO FISHER'S MOTION FOR SUMMARY JUDGMENT SCHEDULED JANUARY 20 AT 9:30AM.
01/09/2004	433	NOTICE OF DEFT. FISHER CONTROLS INT'L, INC.'S MOTION TO STRIKE AFFIDAVIT OF BHIM BHAKOO WILL BE PRESENTED ON JANUARY 20, 2004 AT 9:30AM.
01/13/2004	434	ANSWER OF DEFT. CONNECTIV OPERATING SERVICES COMPANY TO ANY AND ALL CROSS-CLAIMS AND FUTURE CROSS-CLAIMS (IN THE GREAT AMERICAN ASSURANCE COMPANY CASE).
01/13/2004	434	ANSWER TO DEFT. CONNECTIV OPERATING SERVICES COMPANY TO ANY AND ALL CROSS-CLAIMS AND FUTURE CROSS-CLAIMS (IN THE PRAXAIR CASE).

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 41

02C-04-263
01/16/2004 435 LETTER DATED 01/16/2004 FROM PAUL A. BRADLEY, ESQ. TO SLIGHTS, J. ENCLOSED IS THE AGENDA FOR THE 1/20/04 STATUS CONFERENCE.

01/16/2004 436 SUBSTITUTION OF COUNSEL - PLEASE WITHDRAW THE APPEARANCE OF JOANNA REIVER, ESQ., AND ENTER THE APPEARANCE OF SHERIDEN T. BLACK, ESQ. FOR SAINT GOBAIN PERFORMANCE PLASTICS.

01/16/2004 437 LETTER DATED 01/16/2004 FROM SEAN J. BELLEW, ESQ. TO SLIGHTS, J. WE REPRESENT PRAXAIR, INC...RE 1/20/04 MOTIONS AND STATUS CONFERENCE.

01/20/2004 438 STATUS CONFERENCE AND SIX CIVIL MOTIONS FILED BY FISHER CONTROLS INTERNATIONAL, INC.
 1. MOTION FOR PARTIAL SUMMARY JUDGMENT ON PRAXAIR, INC.'S NEGLIGENCE CLAIM.
 2. MOTION FOR PARTIAL SUMMARY JUDGMENT ON NEGLIGENCE CLAIM ASSERTED BY GREAT AMERICAN ASSURANCE COMPANY.
 3. MOTION FOR PARTIAL SUMMARY JUDGMENT ON WARRANTY CLAIMS ASSERTED BY GREAT AMERICAN ASSURANCE COMPANY.
 4. MOTION FOR PARTIAL SUMMARY JUDGMENT ON WARRANTY AND CONTRACT CLAIMS ASSERTED BY PLTF. PRAXAIR, INC.
 5. MOTION FOR SUMMARY JUDGMENT ON ALL CLAIMS ASSERTED BY PLTF. GREAT AMERICAN ASSURANCE COMPANY.
 6. MOTION TO STRIKE BHIM BHAKOO AFFIDAVIT
 DECISION:
 - MOTIONS 1 AND 4 ARE TAKEN UNDER ADVISEMENT.
 - MOTIONS 2, 3 AND 5 ARE WITHDRAWN AS GREAT AMERICAN ASSURANCE COMPANY WILL BE DISMISSING THE LAWSUIT AGAINST FISHER.
 - MOTION 6 WILL BE RESCHEDULED, IF NECESSARY.
 (SEE PROCEEDING SHEET FOR MORE DETAILS ON STATUS CONF.)

01/20/2004 439 SUBSTITUTION OF COUNSEL BY WITHDRAWING THE APPEARANCE OF MARC S. CASARINO, ESQ., AND ENTERING THE APPEARANCE OF JONATHAN LAYTON, ESQ., FOR PLTF. GREAT AMERICAN ASSURANCE COMPANY.

01/23/2004 440 SUBSTITUTION OF COUNSEL BY WITHDRAWING THE APPEARANCE OF SOMERS S. PRICE, JR., AND GREGORY A. INSKIP, AND ENTERING R. STOKES NOLTE, ESQ. FOR CONNECTIV OPERATING SERVICES COMPANY.

01/23/2004 441 DEFT. FISHER CONTROLS INTERNATIONAL, INC.'S SECOND MOTION TO COMPEL DISCOVERY RESPONSES FROM PRAXAIR, INC. ON FEBRUARY 9, 2004 AT 9:00AM.

01/30/2004 442 DEFT. TEXACO DEVELOPMENT CORPORATION'S MOTION TO COMPEL DISCOVERY RESPONSES FROM DEFT. PRAXAIR ON 2/9/04 AT 9:00AM.

02/02/2004 443 RE-NOTICE OF DEFT. TEXACO DEVELOPMENT CORPORATION'S MOTION TO COMPEL DISCOVERY RESPONSES FROM DEFT. PRAXAIR

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 42

02C-04-263

ON FEBRUARY 23, 2004 AT 9:00AM.

02/02/2004 444 LETTER DATED 02/02/2004 FROM PAUL A. BRADLEY, ESQ. TO SLIGHTS, J. FISHER CONTROLS INTERNATIONAL, INC.'S MOTION TO COMPEL PRAXAIR ON FEBRUARY 9, 2004 IS UNNECESSARY AT THIS TIME.

02/03/2004 445 FISHER CONTROLS' VACATION OF NOTICE OF MOTION TO COMPEL PRAXAIR ON FEBRUARY 9, 2004.

02/19/2004 446 LETTER DATED 02/19/2004 FROM CHAD J. TOMS, ESQ. TO SLIGHTS, J. DEFTS. TEXACO DEVELOPMENT CORPORATION AND TEXACO INC.'S MOTION TO COMPEL PRAXAIR SCHEDULED FEBRUARY 23, 2004 AT 9:00AM IS UNNECESSARY AT THIS TIME.

03/04/2004 447 NOTICE OF DEPOSITION OF J.J. WHITE, INC., BY AND THROUGH ITS DESIGNATED CORPORATE REPRESENTATIVE OR REPRESENTATIVES, PURSUANT TO SUPERIOR COURT RULES 26 AND 30(B)(6) ON MARCH 24, 2004 BY DEFT. FISHER CONTROLS INTERNATIONAL, INC.

03/05/2004 448 NOTICE OF CHANGE OF ADDRESS OF MURPHY SPADARO & LANDON - COUNSEL FOR THIRD-PARTY DEFT. HYDROCHEM INDUSTRIAL SERVICES, INC.

03/11/2004 449 NOTICE OF CONTINUATION OF DEPOSITION OF BHIM BAKHOO ON APRIL 1, 2004 BY DEFT. FISHER CONTROLS INTERNATIONAL, INC.

03/11/2004 450 NOTICE OF DEPOSITION OF NEIL WILSON ON APRIL 2, 2004 BY DEFT. FISHER CONTROLS INTERNATIONAL, INC.

03/11/2004 451 NOTICE OF CONTINUATION OF DEPOSITION OF DAVID GOOD ON MARCH 29 AND MARCH 30, 2004, COMMENCING AT 9:30AM BY DEFT. FISHER CONTROLS INTERNATIONAL, INC.

03/11/2004 452 NOTICE OF DEPOSITION OF THOMAS WHITACRE ON MARCH 25, 2004 BY DEFT. FISHER CONTROLS INTERNATIONAL, INC.

03/11/2004 453 RENOTICE OF CONTINUATION OF DEPOSITION OF DAVID GOOD ON MARCH 30 AND MARCH 31, 2004 COMMENCING AT 9:30AM BY DEFT. FISHER CONTROLS INTERNATIONAL, INC.

03/12/2004 454 NOTICE OF DEPOSITION OF JAY PATEL ON MARCH 22, 2004 BY THE PLTFs.

03/12/2004 455 NOTICE OF DEPOSITION OF ROGER HAWLEY ON MARCH 26, 2004 BY THE PLTFs.

03/12/2004 456 NOTICE OF DEPOSITION OF DEFT. PRAXAIR, INC. EMPLOYEE GERALD PAOLINO ON MARCH 29, 2004 BY DEFT. TEXACO DEVELOPMENT CORPORATION.

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 43

02C-04-263
03/15/2004 457 NOTICE OF DEPOSITION OF OF CONECTIV OPERATING SERVICES COMPANY EMPLOYEE LEONARD SWITLISKI ON MARCH 23, 2004 BY DEFT. TEXACO DEVELOPMENT CORPORATION.

03/17/2004 458 LETTER DATED 03/17/2004 FROM PAUL A. BRADLEY, ESQ. TO SLIGHTS, J. THIS LETTER CONFIRMS CONVERSATIONS WITH CHAMBERS THAT THE STATUS CONFERENCE CURRENTLY SCHEDULED FOR APRIL 19, 2004 IN THE ABOVE-REFERENCED MATTER HAS BEEN RESCHEDULED TO APRIL 26, 2004 AT 2:00PM.

03/24/2004 459 NOTICE OF DEPOSITION OF GARY CALLOWAY ON APRIL 28, 2004 BY THE PLTFS.

04/01/2004 #422 SO ORDER, ON 04/01/2004 BY SLIGHTS, J.
*****E FILED*****

04/01/2004 #422 SIGNED BY SLIGHTS, J. ON 04/01/04, SO ORDERED.
*****E-FILED*****

04/07/2004 460 NOTICE OF SERVICE OF PLTFS' COMBINED REQUEST FOR PRODUCTION OF DOCUMENTS AND REQUEST FOR ANSWERS TO INTERROGATORIES PROPOUNDED ON ALL PARTIES.

04/10/2004 462 DEFT FISHER CONTROLS INTERNATIONAL, INC.'S MOTION TO COMPEL DISCOVERY RESPONSES FROM PARSONS, INC., SCHEDULED FOR MON., 4/26/04 AT 2:00 P.M.

04/10/2004 463 DEFT FISHER CONTROLS INTERNATIONAL, INC.'S THIRD MOTION TO COMPEL DISCOVERY RESPNSES FROM PRAXAIR, INC., SCHEDULED FOR MON., 4/26/04 AT 2:00 P.M.

04/13/2004 461 TRANSCRIPT FROM JANUARY 20, 2004 HEARING ON MOTIONS AND STATUS CONFERENCE BEFORE SLIGHTS, J.

04/21/2004 464 RESPONSE OF PRAXAIR, INC. TO FISHER CONTROLS INTERNATIONAL CONTROLS, INC.'S THIRD MOTION TO COMPEL.

04/21/2004 465 NOTICE OF DEPOSITION OF ANDREW ENGELS PURSUANT TO SUPERIOR COURT RULE 26 ON APRIL 27, 2004 BY DEFT. FISHER CONTROLS INTERNATIONAL, INC.

04/22/2004 466 LETTER DATED 04/22/2004 FROM CHRISTOPHER KONZELMANN, ESQ. TO SLIGHTS, J. I REPRESENT PLTF. GREAT AMERICAN ASSURANCE COMPANY...GREAT AMERICAN HAS NOW SETTLED ITS CLAIMS AGAINST THE REMAINING DEFT IN THAT LITIGATION, NORTHEAST CONTROLS, INC. SETTLEMENT OF THE GREAT AMERICAN LITIGATION WILL ALSO RESULT IN THE VOLUNTARY DISMISSAL OF THE PRAXAIR AFFIRMATIVE CLAIMS....

04/26/2004 467 MEMORANDUM OF OPINION FROM JUDGE SLIGHTS. UPON CONSIDERATION OF DEFT FISHER CONTROLS INTERNATIONAL'S MOTIONS FOR PARTIAL SUMMARY JUDGMENT. DECISION: GRANTED. DATED SUBMITTED: JANUARY 20, 2003.

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 44

02C-04-263

DATED DECIDED: APRIL 26, 2004.

04/26/2004	468	NOTICE OF DEPOSITION OF BERT CAPPELLINI, PURSUANT TO SUPERIOR COURT RULE 26 ON APRIL 29, 2004 BY DEFT. PRAXAIR, INC.
04/26/2004	469	LETTER DATED 04/26/2004 FROM JOSEPH RICHES, ESQ. FOLLOWING OUR LETTER OF APRIL 23, 2004, AND OUR EMAIL OF THIS MORNING, THIS LETTER CONFIRMS THAT PRAXAIR WILL DISMISS ITS AFFIRMATIVE CLAIMS WITHOUT PREJUDICE UPON THE SETTLEMENT AND DISMISSAL OF THE GREAT AMERICAN CLAIMS, WHICH WE UNDERSTAND ARE IMMINENT.
05/05/2004		#462 SO ORDERED, ON 05/05/2004 BY SLIGHTS, J. GRANTED WITH AMENDMENTS (SEE EFILING ID #3527116) DEFT/THIRD-PARTY PLTF FISHER CONTROLS INTERNATIONAL INC.'S MOTION TO COMPEL DISCOVERY RESPONSES FROM PARSON, INC.
05/06/2004	470	NOTICE OF SERVICE OF THE ANSWERS AND RESPONSES OF MOTIVA ENTERPRISES LLC TO COMBINED REQUEST FOR PRODUCTION TO INTERROGATORIES PROPOUNDED ON ALL PARTIES
05/07/2004	471	LETTER DATED 05/07/2004 FROM SEAN BELLEW, ESQ. TO SLIGHTS, J., IN RESPONSE TO MR. HANDLON'S LETTER OF 5/6/04. WE OBJECT TO THE ENTRY OF THE ORDER SUBMITTED BY MR. OLSEN'S COUNSEL...
05/07/2004	472	NOTICE OF SERVICE OF TEXACO DEVELOPMENT CORPORATION AND TEXACO INC. RESPONSES AND OBJECTIONS TO PLTF'S COMBINED REQUEST FOR PRODUCTION OF DOCUMENTS AND REQUEST FOR ANSWERS TO INTERROGATORIES PROPOUNDED ON ALL PARTIES.
05/10/2004	473	DEFENDANT PRAXAIR'S MOTION FOR PROTECTIVE ORDER TO BAR OR LIMIT THE PRODUCTION OF RESULTS ANALYSES, TESTS, EVALUATIONS AND RECREATIONS OF THE HV0629 VALVE, SCHEDULED AT THE CONVENIENCE OF THE COURT.
05/10/2004	474	LETTER DATED 05/10/2004 FROM SEAN BELLEW, ESQ. TO SLIGHTS, J., REQUESTING THAT THE MOTION FOR PROTECTIVE ORDER BE HEARD AT THE MAY 20TH STATUS CONFERENCE...
05/11/2004	475	LETTER DATED 05/11/2004 FROM SLIGHTS, J. TO COUNSEL: THE COURT HAS SIGNED THE PROPOSED FORM OF ORDER SUBMITTED BY FISHER CONTROLS INTERNATIONAL, INC.'S THIRD MOTION TO COMPEL, AS THE COURT DID NOT RECEIVE WITHIN TEN DAYS A LETTER SETTING FORTH THE UNIVERSE OF PROJECT RELATED DOCUMENTS WITH AN INDEX WHICH THE COURT DIRECTED COUNSEL TO SUPPLY AT THE STATUS CONFERENCE ON 4/26/2004. IN ADDITION THE COURT WILL ENTER AN ORDER DISMISSING BOTH ACTIONS WITH PREJUDICE, IN 10 DAYS IF THE COURT IS NOT ADVISED BY GREAT AMERICAN AND PRAXAIR THE STATUS OF THE AGREEMENTS VOLUNTARILY TO DISMISS THOSE ACTIONS. FINALLY, I WILL HEAR ARGUMENT ON

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 45

02C-04-263

PRAXAIR'S MOTION FOR PROTECTIVE ORDER AT THE STATUS CONF. ON 5/20/04. ANY RESPONSES SHALL BE FILED WITH THE COURT ON OR BEFORE 5/18/2004.

05/11/2004 476

SO ORDER, ON 05/11/2004 BY SLIGHTS, J., THE FOREGOING THIRD MOTION OF FISHER CONTROLS INTERNATIONAL INC. TO COMPEL DISCOVERY RESPONSES FROM PRAXAIR, INC., AND PRAXAIR, INC.'S RESPONSE AND ORAL ARGUMENT HAVING BEEN HEARD AND CONSIDERED, IT IS ORDERED THAT FISHER CONTROLS INTERNATIONAL, INC.'S MOTION TO COMPEL IS GRANTED...

05/11/2004 477

LETTER DATED 05/11/2004 FROM JOSEPH RICHES, ESQ. TO SLIGHTS, J., ON BEHALF OF PRAXAIR, WE REQUEST THAT THE COURT TAKE NO ADVERSE ACTION WITH RESPECT TO PRAXAIR'S CLAIMS IF THE GREAT AMERICAN ACTION IS NOT RESOLVED WITHIN THE NEXT TEN DAYS OR STATUS OF THE SETTLEMENT IS NOT REPORTED BY GREAT AMERICAN DURING THAT TIME PERIOD.

05/11/2004 478

LETTER DATED 05/11/2004 FROM CHRIS KONZELMANN, ESQ. TO SLIGHTS, J., I REPRESENT GREAT AMERICAN ASSURANCE CO. I INTEND TO FILE A MOTION SEEKING ISSUANCE OF A PROTECTIVE ORDER BY THE END OF THE DAY FRIDAY. I THEREFORE ASK THAT THE COURT REFRAIN FROM SIGNING THE PROPOSED ORDER THAT MR. ROBBINS HAS SUBMITTED.

05/14/2004 479

DEFT FISHER CONTROLS INTERNATIONAL, INC.'S JOINDER IN MOTION OF DEFT. NORTHEAST CONTROLS, INC., FOR A PROTECTIVE ORDER.

05/14/2004 480

DEFT NORTHEAST CONTROLS' MOTION FOR PROTECTIVE ORDER SCHEDULED FOR 05/20/2004 AT 3:30 P.M.

05/17/2004 481

PLIF GREAT AMERICAN ASSURANCE COMPANY'S MOTION FOR PROTECTIVE ORDER, SCHEDULED FOR 05/20/2004 AT 3:30 P.M.

05/17/2004 482

OPPOSITION IN PART OF MOTIVA ENTERPRISES LLC TO PRAXAIR'S MOTION FOR PROTECTIVE ORDER.

05/18/2004 483

PLAINTIFFS' OBJECTION TO MOTIONS FOR PROTECTIVE ORDER, SCHEDULED FOR 5/20/04 AT 3:30 P.M.

06/11/2004 484

PARTIAL STIPULATION OF DISMISSAL OF PRAXAIR'S COMPLAINT AGAINST FISHER CONTROLS, INC., NORTHEAST CONTROLS, INC. CONNECTIV OPERATING SERVICES, INC. AND TEXACO DEVELOPMENT CORP., AS ASSERTED IN C.A. NO. 02C-05-190 ONLY, WITHOUT PREJUDICE AS TO NORTHEAST CONTROLS, INC. CONNECTIV OPERATING SERVICES, INC. AND TEXACO DEVELOPMENT CORP., PRAXAIR'S COMPLAINT AGAINST FISHER CONTROLS INC., ONLY, HAVING BEEN PREVIOUSLY DISMISSED WITH PREJUDICE. ALL THIRD-PARTY COMPLAINTS AND CROSS-CLAIMS FILED AND ASSERTED IN C.A. NO. 02C-05-190 ARE LIKEWISE DISMISSED, WITHOUT PREJUDICE. ALL CROSS-CLAIMS OF PRAXAIR AS ASSERTED IN C.A. NO 02C-04-263, RONALD W.

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 46

02C-04-263

OLSON ET AL. V. MOTIVE ENTERPRISES, L.L.C., ET AL. AND
ANY OTHER ACTIVE CONSOLIDATED ACTION, ARE PRESERVED.

06/17/2004	485	PARTIAL STIPULATION OF DISMISSAL OF THE AMENDED COMPLAINT AGAINST DEFT. RIX INDUSTRIES, INC.
06/22/2004	492	PARTIAL STIPULATION OF DISMISSAL - PURSUANT TO SUPERIOR COURT CIVIL RULE 41(A)(1)(II), THE UNDERSIGNED PARTIES HEREBY STIPULATE TO A DISMISSAL, WITH PREJUDICE, OF ALL CLAIMS, COMPLAINTS, CROSS-CLAIMS, COUNTERCLAIMS AND THIRD-PARTY COMPLAINTS THEY HAVE ASSERTED AGAINST PARTIES CALLED TEXACO AVIATION PRODUCTS LLC, TEXACO GLOBAL GAS AND POWER, OR "GG&P", IN THE ABOVE-CAPTIONED MATTERS.
06/25/2004	486	PLTFS' MOTION TO EXTEND EXPERT DISCLOSURE DEADLINE, SCHEDULED FOR TUES., 7/19/2004 AT 9:00 A.M.
07/01/2004	487	SUBSTITUTION OF COUNSEL OF JENNIFER A. KAPES, ESQ. FOR JOSEPH F. GULA OF ELZUFON AUSTIN REARDON TARLOV & MONDELL, P.A. FOR DEFT PARSONS ENERGY AND CHEMICALS, INC.
07/01/2004	488	NOTICE OF SERVICE OF PLTFS' RULE 26(B)(4) DISCOVERY RESPONSE.
07/06/2004	489	RESPONSE OF NORTHEAST CONTROLS, INC., TO PLTF'S REQUEST FOR AN EXTENSION OF THE EXPERT DEADLINE.
07/12/2004	491	CIVIL MOTION HEARD BEFORE SLIGHTS, J. PLTFS' MOTION TO EXTEND EXPERT DISCLOSURE DEADLINE DECISION: GRANTED. PLEASE NOTE THE FOLLOWING COURT DEADLINES: - PLTFS' EXPERT REPORTS DUE: AUGUST 2, 2004 - DEFTS' EXPERT REPORTS DUE: NOVEMBER 1, 2004 - REBUTTAL REPORTS DUE: DECEMBER 30, 2004 - DANBERT MOTIONS SHALL BE FILED ON OR BEFORE JANUARY 30, 2005 - ALL OTHER DATES IN THE CASE SCHEDULING ORDER WILL REMAIN IN PLACE.
07/12/2004	#484	SO ORDERED, ON 07/12/2004 BY SLIGHTS, J. STIPULATION OF DISMISSAL (FILING ID 3716512)
07/12/2004	#485	SO ORDERED, ON 07/12/2004 BY SLIGHTS, J. STIPULATION OF DISMISSAL (FILING ID 3746461)
07/12/2004	#492	SO ORDERED, ON 07/12/2004 BY SLIGHTS, J. STIPULATION OF DISMISSAL (FILING ID 3774168)
07/15/2004	493	NOTICE OF CONTINUATION OF DEPOSITION OF JAY PATEL ON JULY 19, 2004 BY DEFT PRAXAIR.
07/21/2004	494	LETTER DATED 07/21/2004 FROM SLIGHTS, J.

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 47

02C-C4-263

DEAR COUNSEL: THE COURT HAS BEEN ADVISED THAT THERE IS NO NEED FOR THE STATUS CONFERENCE, PREVIOUSLY SCHEDULED FOR THURSDAY, JULY 22, 2004, AT 10:00AM. THEREFORE, THE CONFERENCE IS CANCELLED. THE COURT WILL ISSUE FURTHER NOTICE AS TO THE NEXT STATUS CONFERENCE.

07/23/2004 495 NOTICE OF RECORDS ONLY DEPOSITION *DUCES TECUM* OF THE PREMCOR REFINING GROUP, INC. ON JULY 28, 2004 BY DEFT MOTIVA ENTERPRISES.

07/26/2004 #486 SO ORDERED, ON 07/26/2004 BY SLIGHTS, J. GRANTED WITH AMENDMENTS; PLTFS' REQUEST FOR AN EXTENSION OF TIME TO SERVE EXPERT REPORTS AND UPON CONSIDERATION OF THE RESPONSE OF DEFTS. IT IS HEREBY ORDERED THAT PLTFS' MOTION IS GRANTED AND PLTFS MUST SERVE THEIR EXPERT REPORTS NO LATER THAN AUGUST 2, 2004. FURTHER IT IS ORDERED THAT DEFTS SHALL SERVE THEIR EXPERT REPORTS BY NOVEMBER 1, 2004 AND ANY REBUTTAL REPORTS SHALL BE SERVED BY DECEMBER 15, 2004.

08/02/2004 490 DEFENDANT'S MOTION FOR PRO HAC VICE OF MICHAEL HENRY, ESQ. (PA) ; SEAN BELLEW ESQ. LOCAL
*****E-FILED*****

08/02/2004 496 NOTICE OF SERVICE OF PLTFS' SUPPLEMENTAL RULE 26(B)(4) EXPERT DISCOVERY RESPONSE.

08/04/2004 #490 SIGNED BY SLIGHTS, J. ON 08/03/04, SO ORDERED.

08/12/2004 497 DEFENDANT'S MOTION FOR PRO HAC VICE OF ANN THORNTON, ESQ. (CA PA) ; SEAN BELLEW, ESQ. LOCAL
*****E-FILED*****

08/17/2004 #497 SIGNED BY SLIGHTS, J. ON 08/16/04, SO ORDERED.

08/26/2004 JRS HAS GRANTED BY E-MAIL PLTFS M/TO AMEND THE COMPT. WITHOUT A MOTION TO EXTEND THE PAGE LIMIT. OPENING AND ANSWERING BRIEF LIMITED TO 20 PAGES, REPLY LIMITED TO 10. BRIEF SCHEDULED SUBMITTED BY STIPULATION, AVAILABLE DATES FOR THE MOTION 10/25 OR 11/15 AT 9:00. PLTF WILL CONTACT DEFENSE TO CONFER.

08/27/2004 498 MCTION FOR LEAVE TO AMEND THE FIRST AMENDED COMPLAINT SCHEDULED OCTOBER 25, 2004 AT 9:00AM BEFORE SLIGHTS, J.
*****FILED UNDER SEAL*****

09/08/2004 499 STIPULATED SCHEDULING ORDER REGARDING BRIEFING ON PLTFS' MOTION TO AMEND THE FIRST AMENDED COMPLAINT.

09/10/2004 #499 SO ORDER, ON 09/10/2004 BY SLIGHTS, J., THAT
1. RESPONSE OF PRAXAIR, INC., SHALL BE FILED NO LATER THAN 9/30/2004.
2. PLTFS' REPLY NO LATER THAN 10/15/2004.
3. THE COURT WILL HEAR ARGUMENT ON PLTF'S MOTION TO

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 46

02C-04-263

AMEND THE FIRST AMENDED COMPLAINT ON 10/25/04 AT 9 AM.
4. LEAVE IS GRANTED TO EXCEED THE PAGE LIMIT RESTRICT-
IONS FOR MOTIONS AND SUPPORTING APPENDICES. THE MOTION
& PRAXAIR'S ANSWERING BRIEF SHALL NOT EXCEED 20 PAGES.
PLTFS' REPLY BRIEF SHALL NOT EXCEED 10 PAGES.

09/30/2004 500 ANSWERING BRIEF OF DEFT PRAXAIR IN OPPOSITION OF PLTFS'
MOTION FOR LEAVE TO AMEND THE FIRST AMENDED COMPLAINT.
*****FILED UNDER SEAL*****

10/05/2004 501 NOTICE OF SERVICE OF PLTFS' EXPERT INTERROGATORIES AND
REQUEST FOR PRODUCTION DIRECTED TO ALL DEFTS.

10/11/2004 502 PLAINTIFF'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS
FROM PRAXAIR, INC., SCHEDULED FOR 10/25/2004 AT 9:00 AM
FILED UNDER SEAL

10/11/2004 503 DEFT/THIRD PARTY PLTF FISHER CONTROLS INTERNATIONAL,
INC.'S FOURTH MOTION TO COMPEL DISCOVERY RESPONSES FROM
PRAXAIR, INC., SCHEDULED FOR 10/25/04 AT 9:00 AM.
FILED UNDER SEAL

10/11/2004 504 DEFT/THIRD-PARTY PLTF FISHER CONTROLS INTERNATIONAL,
INC.'S FIFTH MOTION TO COMPEL DISCOVERY RESPNSSES FROM
PRAXAIR, INC., SCHEDULED FOR 10/25/04 AT 9:00 A.M.
FILED UNDER SEAL

10/15/2004 505 REPLY BRIEF IN SUPPORT OF PLTFS' MOTION TO AMEND THE
FIRST AMENDED COMPLAINT.

10/15/2004 506 RE-NOTICE OF DEFT FISHER CONTROLS INTERNATIONAL, INC.'S
FORTH AND FIFTH MOTIONS TO COMPEL DISCOVERY RESPONSES
FROM PRAXAIRE, INC., SCHEDULED FROM 10/25/04 AT 9:00 TO
10/28/2004 AT 9:00 A.M.

10/22/2004 507 LETTER DATED 10/22/2004 FROM JOSEPH C. HANDLON, ESQ. TO
SLIGHTS, J. WITH THE AGENDA FOR THE HEARINGS ON 10/25
AND 10/28/2004.

11/03/2004 508 SECOND AMENDED COMPLAINT FILED ON 11/03/2004.

11/04/2004 509 HYDROCHEM INDUSTRIAL SERVICES, INC., ANSWER TO SECOND
AMENDED COMPLAINT.

11/22/2004 510 DEFT HYDROCHEM INDUSTRIAL SERVICES, INC.'S ANSWER TO
NORTHEAST CONTROLS, INC.'S CROSS-CLAIMS.

11/22/2004 511 ANSWER AND CROSSCLAIM OF PRAXAIR, INC. TO PLTFS' SECOND
AMENDED COMPLAINT.

11/24/2004 512 DEFENDANT'S HYDROCHEM INDUSTRIAL SERVICES, INC., ANSWER
TO PRAXAIR, INC.'S CROSS-CLAIM.

12/22/2004 513 LETTER DATED 12/22/2004 FROM JOSEPH HANDLON, ESQ. TO

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 49

02C-04-263

SLIGHTS, J., THE COURT INSTRUCTED THAT PLTFS, FISHER CONTROLS INTERNATIONAL, INC., AND PRAXAIR FILE SUPPLEMENTAL PAFERS FOLLOWING THE DEPOSITION OF EDWARD N. SACCOCCIA, JR., THE AUTHOR OF THE "INCIDENT REPORT," WHICH WAS THE SUBJECT OF MOTIONS TO COMPEL FILED IN OCTOBER... (FILED UNDER SEAL, ID #4831996)

12/22/2004 514 SUPPLEMENTAL MEMORANDUM IN SUPPORT OF PLTFS' MOTION TO COMPEL PRODUCTION OF DOCUMENTS FROM PRAXAIR, INC. (FILED UNDER SEAL, ID 4832208)

12/22/2004 515 SUPPLEMENTAL MEMORANDUM IN SUPPORT OF FISHER CONTROLS INTERNATIONAL, INC.'S FOURTH MOTION TO COMPEL DISCOVERY RESPONSES FROM PRAXAIR, INC. (FILED UNDER SEAL, #483198)

01/06/2005 516 DEFT PRAXAIR, INC.'S MOTION FOR PROTECTIVE ORDER, SCHEDULED FOR 01/20/2005 AT 9:00 A.M.

01/07/2005 517 PRAXAIR INC.'S RESPONSE IN OPPOSITION TO PLTFS' AND FISHER CONTROLS INTERNATIONAL, INC.'S SUPPLEMENTAL MOTIONS TO COMPEL.

01/11/2005 518 PLAINTIFFS' OBJECTION TO PRAXAIR, INC.'S MOTION FOR PROTECTIVE ORDER, SCHEDULED FOR 1/20/2005 AT 9:00 A.M. (FILED UNDER SEAL)

01/19/2005 519 LETTER DATED 01/19/2005 FROM SLIGHTS, J. PLEASE BE ADVISED THAT THE COURT HAS REMOVED PRAXAIR'S MOTION FOR PROTECTIVE ORDER FROM THE COURT CALENDAR ON 1/20/05

01/28/2005 520 LETTER DATED 01/28/2005 FROM JOSEPH HANDLON TO JUDGE SLIGHTS. IN RE: THE PARTIES HAVE AGREED TO EXTEND THE DEADLINE TO PRODUCE REBUTTAL EXPERT....

02/02/2005 # 520 SO ORDER, ON 02/02/2005 BY SLIGHTS, J.

02/18/2005 521 TRANSCRIPT FROM HEARING ON 10/25/04

02/24/2005 522 NOTICE OF SERVICE OF DEFT. MOTIVA ENTERPRISES LLC'S ANSWERS TO PLTF'S. SECOND SET OF REQUESTS FOR ADMISSIONS, INTERROGATORIES AND REQUEST FOR PRODUCTION.

02/28/2005 523 LETTER DATED 02/28/2005 FROM SLIGHTS, J. TO ALL COUNSEL. PLEASE BE ADVISED THAT A NEW DATE FOR ORAL ARGUMENT ON THE MOTIONS THAT WERE CANCELLED LAST WEEK DUE TO INCLEMENT WEATHER IS NOW SCHEDULED FOR 3/3/05 AT 10:00

03/02/2005 524 NOTICE OF SERVICE OF RESPONSES OF TEXACO, INC. AND TEXACO DEVELOPMENT TO PLTFS' SECOND SET OF REQUESTS FOR ADMISSIONS, ANSWERS TO INTERROGATORIES, AND REQUEST FOR PRODUCTION.

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 50

02C-04-263
03/10/2005 525 TRANSCRIPT FROM PLTFS. MOTION TO COMPEL ON 3/3/05

03/10/2005 528 PROCEEDING SHEET FROM TELECONFERENCE ON 3/10/05
DAUBERT, DISPOSITIVE AND SUMMARY JUDGMENT MOTIONS ARE
TO BE FILED BY 4/12/05. ANSWERING BRIEF BY 5/13/05 AND
REPLY BRIEF BY 5/24/05. ORAL ARGUMENT ON 6/20/05
AT 9:00. PAGE LIMIT 15 (MOTIONS), 15 (ANSWERING) AND
5 (REPLY).

03/15/2005 526 PROPOSED ORDER GRANTING PRAXAIR'S MOTION FOR PROTECTIVE
ORDER FILED BY SEAN BELLEW UNDER FILING ID# 5365683.

03/17/2005 527 MEMORANDUM OF OPINION FROM JUDGE SLIGHTS.
BASED ON THE FOREGOING, AND FOR THE REASONS STATED IN
OPEN COURT, PLAINTIFFS' AND FISHER CONTROLS' MOTION
TO COMPEL THE PRODUCTION OF THE ROOT CAUSE ANALYSIS
REPORT ARE GRANTED. THE DOCUMENT IS NOT PROTECTED
BY THE WORK-PRODUCT IMMUNITY AND MUST BE PRODUCED IN
ACCORDANCE WITH THE DIRECTIONS GIVEN TO COUNSEL AT
THE CONCLUSION OF THE MARCH 3, 2005 HEARING.
IT IS SO ORDERED

03/28/2005 529 NOTICE OF SERVICE- COPIES OF PLTFS, SUPPLEMENTAL
DISCOVERY RESPONSE PURSUANT TO SUPERIOR COURT
RULE 26 WERE SERVED VIA MAIL TO PAUL LUKOFF,
PAUL BRADLEY, DELTA CLARK, SEAN BELLEW, MICHAEL TIGHE,
JENNIFER KAPES, CHAD TOMS, BRADFORD SANDLER, JAMES
KELLER, R. STOKES KOLTB, ALEXANDER EWING, DONALD DAVIS,
JAMES HILER, CHASE BROCKSTEDT, DAVID CULLEY, SHERIDEN
BLACK, THOMAS WAGNER, RICARD HOHN, PATRICK MCVBY AND
WARREN JACOBY

04/06/2005 530 LETTER DATED 04/06/2005 FROM CHASE BROCKSTEDT TO
JUDGE SLIGHTS, IN RE: SEVERAL ISSUES HAVE ARISEN
AND THE PARTIES REQUIRE THE COURT TO INTERVENE.
HYDROCHEM HEREBY REQUESTS AN EMERGENCY HEARING
ON APRIL 8, 2005.

04/08/2005 531 AND NOW, THIS 8TH DAY OF APRIL, 2005, THE COURT HAVING
CONSIDERED A MOTION FOR SUMMARY JUDGMENT PRESENTED BY
BATTAGLIA MECHANICAL, INC., ST. GOBAIN PERFORMANCE
PLASTICS, PARSONS ENERGY AND CHEMICAL GROUP, INC.,
J.J. WHITE, INC.; DAIKIN INDUSTRIES, LTD. AND HYDROCHEM
INDUSTRIAL SERVICES, INC. ("THE MOVING PARTIES"), AND;
THERE BEING NO OPPOSITION TO THE MOTION,
IT IS HEREBY ORDERED THAT ALL CLAIMS AGAINST THE MOVING
PARTIES AND ALL CLAIMS BY THE MOVING PARTIES AGAINST
ANY PARTY TO THIS LITIGATION AND THEIR RESPECTIVE
OFFICERS, DIRECTORS, AGENTS, SERVANTS, WORKERS,
EMPLOYEES AND INSURERS, IN ANY WAY RELATED TO, OR
ARISING FROM, THIS LITIGATION, INCLUDING, BUT NOT
LIMITED TO, ANY AND ALL CROSS-CLAIMS THAT ARE STATED
OR COULD HAVE STATED OR ASSERTED, IN THIS ACTION
PURSUANT TO SUPERIOR COURT RULE 13 (G) OR ANY OTHER

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 51

02C-04-263

AUTHORITY, ARE HEREBY DISMISSED WITH PREJUDICE,
WITH EACH DISMISSED PARTY BEARING IT'S OWN COSTS,
FEES AND EXPENSES.
IT IS SO ORDERED BY SLIGHTS, J.

04/12/2005	532	DEFENDANT FISHER CONTROLS INTERNATIONAL, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO PLTFS' NEGLIGENCE CLAIMS. (FILED UNDER SEAL)
04/12/2005	533	DEFT FISHER CONTROLS INTERNATIONAL, INC.'S MOTION FOR SUMMARY JUDGMENT ON PRAXAIR, INC.'S CROSS-CLAIM FOR INDEMNIFICATION AGAINST FISHER. (FILED UNDER SEAL)
04/12/2005	534	DEFT FISHER CONTROLS INTERNATIONAL, INC.'S MOTION FOR SUMMARY JUDGMENT AS TO ALL CROSS-CLAIMS FOR CONTRIBUTION ASSERTED BY ALL DEFENDANTS, SCHEDULED FOR 6/20/2005.
04/12/2005	535	DEFT FINSHER CONTROLS INTERNATIONAL, INC.'S MOTION FOR SUMMARY JUDGMENT ON INDEMNIFICATION CLAIMS ASSERTED BY NORTHEAST CONTROLS, SCHEDULED FOR 6/20/2005.
04/12/2005	536	DEFT FISHER CONTROLS INTERNATIONAL, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT OF PLTFS' WARRANTY CLAIMS, SCHEDULED FOR 6/20/2005.
04/12/2005	537	AFFIDAVIT OF MEREDITH MILLER IN SUPPORT OF DEFT FISHER CONTROLS INTERNATIONAL, INC.'S MOTIONS FOR SUMMARY JUDGMENT.
04/12/2005	538	SECOND AFFIDAVIT OF MEREDITH MILLER IN SUPPORT OF DEFT FISHER CONTROLS' MOTIONS FOR SUMMARY JUDGMENT.
04/12/2005	539	THIRD AFFIDAVIT OF MEREDITH MILLER IN SUPPORT OF DEFT. FISHER CONTROLS' MOTIONS FOR SUMMARY JUDGMENT.
04/12/2005	540	EXHIBITS REFERENCED IN MOTIONS FOR SUMMARY JUDGMENT FILED BY FISHER CONTROLS INTERNATIONAL, INC. ON 4/12/05
04/12/2005	541	NON-DELAWARE CASES REFERENCED IN MOTIONS FOR SUMAMRY JUDGMENT FILED BY FISHER CONTROLS INTERNATIONAL, INC., ON 4/12/2005.
04/12/2005	542	FISHER CONTROLS INTERNATIONAL, INC.'S DAUBERT MOTION TO EXCLUDE PRAXAIR, INC.'S CAUSATION EXPERT J. PHILIP WHITMAN, SCHEDULED FOR 6/20/2005 AT 9:00 A.M.
04/12/2005	543	AFFIDAVIT OF ROBERT A. MOSTELLO.
04/12/2005	544	EXHIBITS REFERENCED IN DAUBERT MOTIONS TO EXCLUDE THE TESTIMONY OF PRAXAIR, INC.'S CAUSATION EXPERT J. PHILIP WHITMAN, FILED BY PLTFS RONALD W. OLSON AND CAROL OLSON AND DEFTS FISHER CONTROLS INTERNATIONAL, INC. AND NORTHEAST CONTROLS, INC. ON 4/12/2005.

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 52

02C-04-263
04/12/2005 545 PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND TO EXCLUDE CERTAIN TESTIMONY OF ROBERT E. LINNEY, SCHEDULED FOR 6/20/2005 AT 9:00 A.M.

04/12/2005 546 PLAINTIFFS APPENDIX IN SUPPORT OF THEIR MOTION FOR PARTIAL SUMMARY JUDGMENT AND TO EXCLUDE CERTAIN TESTIMONY OF ROBERT E. LINNEY.

04/12/2005 547 PLAINTIFFS' JOINDER TO FISHER CONTROLS INTERNATIONAL'S MOTION IN LIMINE TO EXCLUDE TESTIMONY OF J. PHILIP WHITMAN.

04/12/2005 548 DEPT TEXACO INC. AND TEXACO DEVELOPMENT CORPORATION'S MOTION FOR SUMMARY JUDGMENT, SCHEDULED FOR 6/20/05.

04/12/2005 549 OPENING BRIEF IN SUPPORT OF MOTION OF TEXACO, INC. AND TEXACO DEVELOPMENT CORPORATION FOR SUMMARY JUDGMENT.

04/12/2005 550 DEFTS TEXACO INC. AND TEXACO DEVELOPMENT CORPORATION'S MOTION TO PRECLUDE THE REPORTS AND TESTIMONY OF TIM A. JUR, PH.D., P.E., AS TO TEXACO INC. AND TEXACO DEVELOPMENT CORPORATION, SCHEDULED FOR 6/20/05.

04/12/2005 551 OPENING BRIEF OF DEFTS TEXACO INC. AND TEXACO DEVELOPMENT CORPORATION IN SUPPORT OF THEIR MOTION TO PRECLUDE THE REPORT AND TESTIMONY OF TIM A. JUR, PH.D., P.E., AS TO TEXACO INC. AND TEXACO DEVELOPMENT CORP.

04/12/2005 552 MOTIVA ENTERPRISES LLC'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON CLAIMS RELATED TO GARY DELGREGO'S CONDUCT, SCHEDULED FOR 6/20/05.

04/12/2005 553 OPENING BRIEF OF MOTIVA ENTERPRISES LLC IN SUPPORT OF ITS MOTION FOR PARTIAL SUMMARY JUDGMENT ON CLAIMS RELATED TO GARY DELGREGO'S CONDUCT.

04/12/2005 554 MOTIVA ENTERPRISES LLC'S MOTION FOR PARTIAL SUMMARY JUDGMENT RELATING TO THE PLTF'S PHYSICAL PROXIMITY TO THE 629 VALVE AT THE TIME OF THE INCIDENT, SCHEDULED OR 6/20/05.

04/12/2005 555 OPENING BRIEF OF MOTIVA ENTERPRISES LLC IN SUPPORT OF ITS MOTION FOR PARTIAL SUMMARY JUDGMENT RELATING TO THE PLTF'S PHYSICAL PROXIMITY TO THE 629 VALVE AT THE TIME OF THE INCIDENT.

04/12/2005 556 MOTIVA ENTERPRISES LLC'S MOTION FOR PARTIAL SUMMARY JUDGMENT THAT OSHA PROCESS SAFETY MANAGEMENT REGULATIONS 29 CFR SEC 1910.119 DID NOT APPLY TO MOTIVA OR THIS PROJECT, SCHEDULED FOR 6/20/05.

04/12/2005 557 OPENING BRIEF OF MOTIVA ENTERPRISES LLC IN SUPPORT OF ITS MOTION FOR PARTIAL SUMMARY JUDGMENT THAT OSHA PROCESS SAFETY MANAGEMENT REGULATIONS 29 CFR SEC. 1910.

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 53

02C-04-263

119 DID NOT APPLY TO MOTIVA OR THIS PROJECT.

04/12/2005 558 NORTHEAST CONTROLS, INC.'S DAUBERT MOTION TO EXCLUDE
PRAXAIR, INC.'S CAUSATION EXPERT J. PHILIP WHITMAN.

04/12/2005 559 DEFT NORTHEAST CONTROLS, INC.'S MOTION FOR SUMMARY
JUDGMENT REGARDING CROSS-CLAIMS ASSERTED BY DEFENDANT
PRAXAIR, INC.

04/12/2005 560 DEFT NORTHEAST CONTROLS, INC.'S MOTION FOR SUMMARY
JUDGMENT REGARDING CROSS-CLAIMS ASSERTED BY DEFENDANT
TEXACO DEVELOPMENT CORPORATION.

04/12/2005 561 DEFT NORTHEAST CONTROLS, INC.'S MOTION FOR SUMMARY
JUDGMENT REGARDING CROSS-CLAIM ASSERTED BY DEFENDANT
MOTIVA ENTERPRISES, LLC.

04/12/2005 562 DEFT NORTHEAST CONTROLS, INC.'S MOTION FOR SUMAMRY
JUDGMENT REGARDING WARRANTY CLAIMS AND NEGLIGENCE
CLAIMS ASSERTED BY PLTFs, RONALD W. OLSON AND CAROL
OLSON.

04/12/2005 563 DEFT PRAXAIR, INC.'S MOTION FOR SUMMARY JUDGMENT ON
PLTFs' CLAIM FOR PUNITIVE DAMAGES, SCHEDULED FOR
6/20/2005.

04/12/2005 564 OPENING BRIEF OF PRAXAIR, INC. IN SUPPORT OF ITS MOTION
FOR SUMMARY JUDGMENT OF PLTFs' CLAIM FOR PUNITIVE
DAMAGES.

04/12/2005 565 PRAXAIR, INC.'S MOTION TO PRECLUDE TESTIMONY OF PLTFs'
EXPERT WITNESS, SCHEDULED FOR 6/20/2005.

04/15/2005 566 DEFENDANT NORTHEAST CONTROLS, INC.'S MOTION FOR
SUMMARY JUDGMENT REGARDING CROSS-CLAIMS ASSERTED BY
DEFT. PRAXAIR, INC.

04/15/2005 567 TRANSCRIPT FROM EMERGENCY HEARING ON 4/8/05

05/06/2005 568 PARTIAL STIPULATION OF DISMISSAL - (FILED UNDER SEAL)
THAT DEFT/CROSS-CLAIM PLTF FISHER CONTROLS CROSS-CLAIMS
AGAINST NORTHEAST CONTROLS, INC. ARE DISMISSED WITHOUT
PREJUDICE. FILING ID #5763567.

05/12/2005 569 LETTER DATED 05/12/05 FROM SLIGHTS, J. TO ALL COUNSEL:
ORAL ARGUMENT ON ANY MOTION(s) IN LIMINE WILL BE HELD
ON THURS., 7/7/2005 AT 2:30 p.m.

05/12/2005 570 DEFT., NORTHEAST CONTROLS, INC.'S OPPOSITION TO
PRAXAIR'S MOTION TO EXCLUDE THE TESTIMONY OF DR. POPE
AND MR. MULLER, SCHEDULED FOR 6/20/05 AT 9:00 AM.

05/12/2005 572 DEFT., NORTHEAST CONTROLS, INC.'S MOTION IN LIMINE TO
EXCLUDE DOCUMENTS AND OPINIONS PREPARED BY BARRY NEWTON

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 54

02C-04-263

AND ELLIOTT FORSYTH OF WENDELL HULL & ASSOCIATES, INC.,
ON 7/7/2005 AT 2:30 P.M.

05/12/2005	572	PLAINTIFF'S MOTION IN LIMINE REGARDING RES IPSA LOQUITUR, SCHEDULED FOR 07/7/2005 AT 2:00 P.M.
05/12/2005	573	DEFT., TEXACO, INC. AND TEXACO DEVELOPMENT CORP.'S MOTION IN LIMINE PURSUANT TO DELAWARE RULE OF EVIDENCE 407, SCHEDULED FOR 7/7/2005 AT 2:00 P.M.
05/12/2005	574	DEFT'S TEXACO INC. AND TEXACO DEVELOPMENT CORP.'S NOTICE TO JOIN IN MOTIONS IN LIMINE FILED BY OTHER PARTIES, SCHEDULED FOR 7/7/2005 AT 2:00 P.M.
05/12/2005	575	DEFTS TEXACO, INC. AND TEXACO DEVELOPMENT CORPORATION'S MOTION IN LIMINE TO PRECLUDE THE INTRODUCTION OF CERTAIN WRITTEN "STATEMENTS" AT TRIAL, SCHEDULED FOR 7/7/2005 AT 2:00 P.M.
05/12/2005	576	DEFTS TEXACO, INC. AND TEXACO DEVELOPMENT CORP.'S MOTION IN LIMINE TO PRECLUDE ANY REFERENCE TO A PROCEDURE DRAFTED BY GARY T. DELGREDO AS A "COMMISSIONING PROCEDURE" OR A "COMMISSIONING STRATEGY", SCHEDULED FOR 7/7/2005 AT 2:00 P.M.
05/12/2005	577	DEFTS TEXACO, INC. AND TEXACO DEVELOPMENT CORPORATION'S MOTION IN LIMINE TO PRECLUDE THE INTRODUCTION OF EVIDENCE AT TRIAL OF ANY TECHNICAL DATA OR OPERATING INFORMATION PERTAINING TO THE TEXACO GASIFICATION TECHNOLOGY AND TO OTHERWISE LIMIT ANY DISCUSSION OF THE GASIFICATION UNIT, SCHEDULED FOR 7/7/2005 AT 2:00 P.M.
05/12/2005	578	DEFTS TEXACO, INC. AND TEXACO DEVELOPMENT CORPORATION'S MOTION IN LIMINE TO EXCLUDE THE REPORTS AND TESTIMONY OF TIM A. JUR, PH.D., P.E., SCHEDULED FOR 7/7/05 AT 2.
05/12/2005	579	DEFT., MOTIVA ENTERPRISES, LLC'S MOTION IN LIMINE, SCHEDULED FOR 7/7/2005 AT 2:00 P.M.
05/12/2005	580	DEFT., PRAXAIR, INC.'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF EDWARD SACCOCCIA'S DRAFT INCIDENT REPORT, SCHEDULED FOR 7/7/2005 2:00 P.M.
05/12/2005	581	DEFT PRAXAIR, INC.'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF SUBSEQUENT REMEDIAL MEASURES TO THE AIR SEPARATION UNIT, SCHEDULED FOR 7/7/2005 AT 2:00 P.M.
05/12/2005	582	DEFT., PRAXAIR, INC.'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF COKE DUST, PRIOR ASU INCIDENTS AND COMPUTATIONAL FLUID DYNAMICS, SCHEDULED FOR 7/7/05 @ 2.
05/12/2005	583	DEFT., NORTHEAST CONTROLS, INC.'S MOTION IN LIMINE TO EXCLUDE SPECIFICATION SHEETS FOR THE HV0629 VALVE AND ANY AND ALL REFERENCES TO THE SPECIFICATION SHEETS AND

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 55

02C-04-263

THE ALLEGED DISCREPANCY REGARDING THE COMPONENT MATERIALS OF THE VALVE, SCHEDULED FOR 7/7/2005 AT 2 PM.

05/13/2005 584 MOTIVA ENTERPRISES, L.L.C.'S ANSWERING BRIEF IN OPPOSITION TO MOTION OF TEXACO, INC. AND TEXACO DEVELOPMENT CORPORATION FOR SUMMARY JUDGMENT.

05/13/2005 585 RESPONSE OF DEFENDANTS TEXACO, INC. AND TEXACO DEVELOPMENT CORPORATION TO THE OPENING BRIEF OF MOTIVA ENTERPRISES, LLC IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT ON CLAIMS RELATED TO GARY DELGREGO'S CONDUCT.

05/13/2005 586 PLAINTIFF'S COMBINED RESPONSE TO THE MOTIONS OF TEXACO AND MOTIVA REGARDING GARY DELGREGO'S NEGLIGENCE.

05/13/2005 587 PLAINTIFFS' BRIEF IN OPPOSITION TO PRAXAIR'S MOTION FOR SUMMARY JUDGMENT ON THE ISSUE OF PUNITIVE DAMAGES.

05/13/2005 588 PLAINTIFFS' ANSWERING BRIEF TO MOTIVA ENTERPRISES LLC'S MOTION FOR PARTIAL SUMMARY JUDGMENT RELATING TO THE PLTF'S PHYSICAL PROXIMITY TO THE 629 VALVE AT THE TIME OF THE INCIDENT.

05/13/2005 589 PLTF'S ANSWERING BRIEF TO THE MOTION FOR PARTIAL SUMMARY JUDGMENT THAT OSHA PROCESS SAFETY MANAGEMENT REGULATIONS DID NOT APPLY TO MOTIVA OR THIS PROJECT.

05/13/2005 590 PLTF'S COMBINED ANSWERING BRIEF TO THE MOTIONS OF TEXACO, INC. AND TEXACO DEVELOPMENT CORPORATION FOR SUMMARY JUDGMENT TO PRECLUDE THE REPORT AND TESTIMONY OF TIM A. JUR, PH.D., P.E.

05/13/2005 591 PLTF'S ANSWERING BRIEF TO PRAXAIR, INC.'S MOTION TO PRECLUDE TESTIMONY OF PLTF'S EXPERT WITNESS.

05/13/2005 592 PLTF'S JOINT APPENDIX IN SUPPORT OF ANSWERING BRIEFS.

05/13/2005 593 PRAXAIR'S RESPONSE TO THE MOTION FOR PARTIAL SUMMARY JUDGMENT OF MOTIVA ENTERPRISES, LLC.

05/13/2005 594 PRAXAIR, INC.'S RESPONSE AND OPPOSITION TO NORTHEAST CONTROLS, INC.'S MOTION FOR SUMMARY JUDGMENT ON PRAXAIR, INC.'S CROSS-CLAIMS.

05/13/2005 595 PRAXAIR, INC.'S MEMORANDUM IN OPPOSITION TO THE MOTION OF TEXACO, INC. AND TEXACO DEVELOPMENT CORPORATION FOR SUMMARY JUDGMENT.

05/13/2005 596 PRAXAIR, INC.'S OPPOSITION TO PLTF'S MOTION IN LIMINE TO PREVENT J. PHILIP WHITMAN, P.E. FROM TESTIFYING ABOUT COMPUTATIONAL FLUID DYNAMICS AND HIS OPINION THAT THERE IS NO SUBSTANTIATION OF PARTICULATE IN THE OXYGEN PIPELINE UPSTREAM OF THE 629 CONTROL VALVE.

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 56

02C-04-263
05/13/2005 597 RESPONSE OF DEFT., PRAXAIR, INC. TO PLTFS' MOTION FOR PARTIAL SUMMARY JUDGMENT AND TO EXCLUDE CERTAIN TESTIMONY OF ROBERT E. LINNEY.

05/13/2005 598 PRAXAIR, INC.'S OPPOSITION TO DEFT FISHER CONTROLS INTERNATIONAL, INC.'S MOTION FOR SUMMARY JUDGMENT AS TO ALL CROSS-CLAIMS FOR CONTRIBUTION.

05/13/2005 599 PRAXAIR, INC.'S OPPOSITION TO FISHER CONTROLS INTERNATIONAL'S DAUBERT MOTION TO PRECLUDE ONE OPINION IN THE TESTIMONY OF EXPERT J. PHILIP WHITMAN, P.E.

05/13/2005 600 PRAXAIR, INC.'S OPPOSITION TO NORTHEAST CONTROLS, INC.'S DAUBERT MOTION TO EXCLUDE TESTIMONY OF PRAXAIR'S CAUSATION EXPERT J. PHILIP WHITMAN, P.E.

05/13/2005 601 RESPONSE OF DEFT TEXACO DEVELOPMENT CORPORATION TO THE OPENING BRIEF OF NORTHEAST CONTROLS, INC. FOR SUMMARY JUDGMENT REGARDING CROSS CLAIMS ASSERTED BY DEFT. TDC.

05/16/2005 619 LETTER DATED 05/16/2005 FROM SLIGHTS, J.
PER THE FIRST AMENDED TRIAL SCHEDULING ORDER DATED SEPTEMBER 9, 2003, IN THE ABOVE REFERENCED MATTER, OPENING BRIEFS IN MOTION(S) IN LIMINE ARE DUE TO BE FILED TODAY. ORAL ARGUMENT ON ANY MOTION(S) IN LIMINE WILL BE HELD ON THURSDAY JULY 7, 2005 AT 2:00

05/19/2005 602 LETTER DATED 05/19/2005 FROM PAUL LUKOFF, ESQ. TO SLIGHTS, J., ON BEHALF OF MOTIVA ENTERPRISES LLC: WE HAVE JOINED IN TWO OF THE MOTIONS IN LIMINE FILED BY THE TEXACO DEFTS.,
. TO EXCLUDE THE REPORTS AND TESTIMONY OF TIM A. JUR
. TO PRECLUDE ANY REFERENCE TO A PROCEDURE DRAFTED BY GARY T. DELGREGO AS A "COMMISSIONING PROCEDURE" OR A "COMMISSIONING STRATEGY".

05/24/2005 603 PLTFS' REPLY BRIEF TO PRAXAIR, INC.'S OPPOSITION TO PLTFS' MOTION IN LIMINE TO PREVENT J. PHILIP WHITMAN, P.E. FROM TESTIFYING ABOUT COMPUTATIONAL FLUID DYNAMICS AND HIS OPINION THAT THERE IS NO SUBSTANTIATION OF PARTICULATE IN THE OXYGEN PIPELINE UPSTREAM OF THE 629 CONTROL VALVE.

05/24/2005 604 PLTFS' REPLY BRIEF TO PRAXAIR, INC.'S RESPONSE TO PLTFS' MOTION FOR PARTIAL SUMMARY JUDGMENT AND TO EXCLUDE CERTAIN TESTIMONY OF ROBERT E. LINNEY.

05/24/2005 605 NOTICE OF WITHDRAWAL OF PRAXAIR'S OPPOSITION TO DEFT. FISHER CONTROLS INTERNATIONAL, INC.'S MOTION FOR SUMMARY JUDGMENT AS TO ALL CROSS-CLAIMS FOR CONTRIBUTION.

05/24/2005 606 PRAXAIR INC.'S REPLY BRIEF IN SUPPORT OF ITS MOTION TO PRECLUDE TESTIMONY OF PLTFS' EXPERT WITNESS.

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 57

02C-04-263

05/24/2005

607 LETTER DATED 05/24/2005 FROM PAUL BRADLEY, ESQ. TO SLIGHTS, J., FISHER CONTROLS INTERNATIONAL, INC. FILED MOTIONS FOR SUMMARY JUDGMENT DIRECTED TO ALL CLAIMS AGAINST IT IN THIS MATTER. NO PARTY FILED OPPOSITIONS TO THE MOTIONS EXCEPT PRAXAIR. PRAXAIR WITHDREW ITS OPPOSITION TODAY. THEREFORE, NO OPPOSITION EXISTS TO SUMMARY JUDGMENT BEING ENTERED IN FAVOR OF FISHER CONTROLS INTERNATIONAL, INC. ORDER ATTACHED.

05/24/2005

608 REPLY BRIEF OF MOTIVA ENTERPRISES, LLC IN SUPPORT OF ITS MOTION FOR PARTIAL SUMMARY JUDGMENT RELATING TO THE PLTF'S PHYSICAL PROXIMITY TO THE 629 VALVE AT THE TIME OF THE ACCIDENT.

05/24/2005

609 MOTIVA ENTERPRISES, L.L.C.'S COMBINEE REPLY TO PLTF'S', TEXACO INC.'S AND TEXACO DEVELOPMENT CORPORATION'S RESPONSES TO ITS MOTION FOR SUMMARY JUDGMENT ON CLAIMS RELATED TO GARY DELGREGO'S CONDUCT.

05/24/2005

610 REPLY BRIEF OF MOTIVA ENTERPRISES LLC IN SUPPORT OF ITS MOTION FOR PARTIAL SUMMARY JUDGMENT THAT OSHA PROCESS SAFETY MANAGEMENT REGULATIONS DID NOT APPLY TO MOTIVA OR THIS PROJECT.

05/24/2005

611 REPLY OF DEFTS TEXACO DEVELOPMENT CORPORATION AND TEXACO INC. ("TEXACO DEFTS") TO BRIEFING FILED BY PLTF IN REPSONSE TO TEXACO DEFTS' MOTION TO PRECLUDE THE REPORTS AND TESTIMONY OF TIM A. JUR, PH.D., P.E. AS RELATES TO THE TEXACC DEFTS.

05/24/2005

612 PRAXAIR, INC.'S REPLY BRIEF IN FURTHER SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT ON PLTF'S' CLAIM FOR PUNITIVE DAMAGES.

05/24/2005

613 REPLY OF DEFTS TEXACC DEVELOPMENT CORPORATION AND TEXACO INC. ("TEXACO DEFTS") TO BRIEFING FILED BY PLTF IN RESPONSE TO TEXACO DEFTS' MOTION FOR SUMMARY JUDGMENT ON ALL CLAIMS AND CROSS-CLAIMS.

05/24/2005

614 REPLY OF DEFTS TEXACO DEVELOPMENT CORPORATION AND TEXACO INC. ("TEXACO DEFTS") TO BRIEFING FILED BY PRAXAIR IN RESPONSE TO TEXACO DEFTS' MOTION FOR SUMMARY JUDGMENT ON ALL CLAIMS AND CROSS-CLAIMS.

05/24/2005

615 PRAXAIR'S REPLY TO NORTHEAST CONTROLS, INC.'S OPPOSITION TO PRAXAIR'S MOTION TO PRECLUDE EXPERTS FROM TESTIFYING TO OPINIONS BASED UPON COMPUTATIONAL FLUID DYNAMICS.

05/24/2005

616 REPLY BRIEF OF DEFT NORTHEAST CONTROLS, INC. IN SUPPORT OF THE MOTION FOR SUMMARY JUDGMENT REGARDING CROSS-CLAIMS ASSERTED BY PRAXAIR, INC.

05/24/2005

617 REPLY OF DEFT NORTHEAST CONTRCLS, INC. IN SUPPORT OF

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 58

02C-04-263

ITS MOTION FOR SUMMARY JUDGMENT REGARDING CROSS-CLAIMS
ASSERTED BY DEPT., TEXACO.

05/24/2005	618	NORTHEAST CONTROLS, INC.'S REPLY IN SUPPORT OF ITS DAUBERT MOTION TO EXCLUDE PRAXAIR, INC.'S CAUSATION EXPERT J. PHILIP WHITMAN.
05/24/2005	620	REPLY OF DEFTS TEXACO DEVELOPMENT CORPORATION AND TEXACO, INC. TO BRIEFING FILED BY MOTIVA ENTERPRISES, L.L.C. IN RESPONSE TO TEXACO DEFTS' MOTION FOR SUMMARY JUDGMENT ON ALL CLAIMS AND CROSS-CLAIMS.
05/26/2005	621	PLAINTIFF'S OBJECTION TO PRAXAIR, INC.'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF COKE DUST, PRIOR ASU INCIDENTS AND COMPUTATIONAL FLUID DYNAMICS.
05/26/2005	622	PLAINTIFF'S OBJECTION TO THE MOTION IN LIMINE OF DEFTS TEXACO, INC. AND TEXACO DEVELOPMENT CORPORATION TO EXCLUDE THE REPORTS AND TESTIMONY OF TIM A. JUR, PH.D., P.E. AS TO TEXACO INC. AND TEXACO DEVELOPMENT CORP.
05/26/2005	623	JOINT OBJECTION OF PLTFs AND NORTHEAST CONTROLS, INC. TO TEXACO'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF GASIFICATION TECHNICAL DATA OR OPERATING INFORMATION.
05/26/2005	624	JOINT OBJECTION OF PLTFs AND NORTHEAST CONTROLS, INC. TO THE MOTION IN LIMINE OF DEFTS TEXACO INC. AND TEXACO DEVELOPMENT CORP. TO PRECLUDE THE INTRODUCTION OF CERTAIN WRITTEN STATEMENTS AT TRIAL.
05/26/2005	625	PLAINTIFF'S OBJECTION TO THE MOTION IN LIMINE OF MOTIVA ENTERPRISES LLC.
05/26/2005	626	REPLY OF TEXACO DEFTS TO PLTFs' MOTION IN LIMINE REGARDING RES IPSA LOQUITUR.
05/26/2005	627	RESPONSE OF DEFT TEXACO DEVELOPMENT CORPORATION TO THE BRIEF OF NORTHEAST CONTROLS, INC. IN SUPPORT OF ITS MOTION IN LIMINE TO EXCLUDE SPECIFICATION SHEETS FOR THE HV0629 VALVE AND RELATED REFERENCES.
05/26/2005	628	RESPONSE OF DEFTS TEXACO DEVELOPMENT CORPORATION AND TEXACO INC. TO THE BRIEF OF NORTHEAST CONTROLS, INC. IN SUPPORT OF ITS MOTION IN LIMINE TO EXCLUDE DOCUMENTS AND OPINIONS PREPARED BY WENDELL HULL & ASSOCIATES, INC
05/26/2005	629	MOTIVA ENTERPRISES LLC'S OPPOSITION TO PLTFs' MOTION IN LIMINE REGARDING RES IPSA LOQUITUR.
05/26/2005	630	MOTIVA ENTERPRISES INC'S OPPOSITION IN PART TO PRAXAIR, INC.'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF COKE DUST, PRIOR ASU INCIDENTS AND COMPUTATIONAL, FLUID DYNAMICS.

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 59

02C-04-263
05/26/2005 631 MOTIVA ENTERPRISES LLC'S OPPOSITION TO PRAXAIR, INC.'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF SACCOCCIA'S INCIDENT REPORT.

05/26/2005 632 MOTIVE ENTERPRISES LLC'S OPPOSITION TO PRAXAIR, INC.'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF SUBSEQUENT REMEDIAL MEASURES TO THE AIR SEPARATION UNIT.

05/26/2005 633 ANSWERING BRIEF OF DEFT., PRAXAIR, INC. TO PLTFs' MOTION IN LIMINE REGARDING RES IPSA LOQUITUR.

05/26/2005 634 DEFT., PRAXAIR, INC.'S ANSWERING BRIEF TO DEFT. NORTHEAST CONTROLS, INC.'S MOTION IN LIMINE TO EXCLUDE DOCUMENTS AND OPINIONS PREPARED BY BARRY NEWTON AND ELLIOTT FORSYTH OF WENDELL HULL & ASSOCIATES, INC.

05/26/2005 635 DEFENDANT PRAXAIR, INC.'S OPPOSITION TO THE MOTION IN LIMINE OF MOTIVA ENTERPRISES, LLC.

05/26/2005 636 DEFT., PRAXAIR, INC.'S ANSWERING BRIEF TO TEXACO'S MOTION IN LIMINE TO PRECLUDE ANY REFERENCE TO A PROCEDURE DRAFTED BY GARY T. DELGREGO AS A "COMMISSIONING PROCEDURE" OR A "COMMISSIONING STRATEGY"

05/26/2005 637 DEFT., PRAXAIR, INC.'S OPPOSITION TO NORTHEAST CONTROLS INC.'S MOTION IN LIMINE TO EXCLUDE SPECIFICATION SHEETS FOR THE HV0629 VALVE AND ANY AND ALL REFERENCES TO THE SPECIFICATION SHEETS AND THE ALLEGED DISCREPANCY REGARDING THE COMPONENT MATERIALS OF THE VALVE.

05/26/2005 638 JOINT OBJECTION OF PLTFs AND NORTHEAST CONTROLS, INC. TO TEXACO'S MOTION IN LIMINE TO PRECLUDE ANY REFERENCE TO A PROCEDURE DRAFTED BY GARY DELGRAGO AS "COMMISSIONING PROCEDURE" OR "COMMISSIONING STRATEGY".

05/26/2005 639 JOINT OBJECTION OF PLTFs AND NORTHEAST CONTROLS, INC. TO PRAXAIR, INC.'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF "EDWARD SACCOCCIA'S DRAFT INCIDENT REPORT".

05/26/2005 640 NORTHEAST CONTROL, INC.'S RESPONSE AND OBJECTION TO PRAXAIR, INC.'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF COKE DUST, PRIOR ASU INCIDENTS, AND COMPUTATIONAL FLUID DYNAMICS.

05/26/2005 641 JOINT RESPONSE OF PLTFs' AND NORTHEAST CONTROLS, INC.'S TO PRAXAIR'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF SUBSEQUENT REMEDIAL MEASURES TO THE AIR SEPARATION UNIT

05/26/2005 642 JOINT RESPONSES OF PLTFs AND NORTHEAST CONTROL, INC. TO TEXACO'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF SUBSEQUENT REMEDIAL MEASURE.

06/01/2005 643 PLAINTIFFS' OMNIBUS REPLY TO OBJECTIONS TO MOTION IN LIMINE REGARDING RES IPSA LOQUITUR.

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 60

02C-04-263
06/02/2005 644 LETTER DATED 05/23/2005 FROM JOSEPH HANDLON, ESQ. TO SLIGHTS, J., I AM WRITING TO ADVISE OF A TYPO TO PLTFS' ANSWERING BRIEF TO THE MOTION FOR PARTIAL SUMMARY JUDG.

06/02/2005 645 LETTER DATED 05/23/2005 FROM JOSEPH HANDLON, ESQ. TO SLIGHTS, J., ENCLOSED PLEASE FIND A COPY OF THE AFFIDAVIT OF ERIC S. GRABER.

06/02/2005 646 REPLY MEMORANDUM OF MOTIVA ENTERPRISES LLC IN SUPPORT OF ITS MOTION IN LIMINE.

06/02/2005 647 REPLY OF DEFTS TEXACO DEVELOPMENT CORPORATION AND TEXACO, INC. TO BRIEFING FILED BY VARIOUS PARTIES IN RESPONSE TO TEXACO DEFTS' MOTION IN LIMINE TO PRECLUDE ANY REFERENCE TO A PROCEDURE DRAFTED BY GARY T. DELGREGO AS A "COMMISSIONING PROCEDURE" OR A "COMMISSIONING STRATEGY"

06/02/2005 648 REPLY BRIEF OF PRAXAIR, INC. IN SUPPORT OF ITS MOTION IN LIMINE TO EXCLUDE EVIDENCE OF SUBSEQUENT REMEDIAL MEASURES TO THE AIR SEPARATION UNIT.

06/02/2005 649 REPLY BRIEF OF PRAXAIR, INC. IN SUPPORT OF ITS MOTION IN LIMINE TO PRECLUDE EVIDENCE OF COKE DUST, PRIOR ASU INCIDENTS, AND COMPUTATIONAL FLUID DYNAMICS.

06/02/2005 650 REPLY BRIEF IN SUPPORT OF PRAXAIR, INC.'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF EDWARD SACCOCCIA'S DRAFT INCIDENT REPORT.

06/02/2005 651 DEFENDANT NORTHEAST CONTROLS, INC.'S REPLY TO TEXACO AND PRAXAIR'S OPPOSITION TO MOTION IN LIMINE TO EXCLUDE SPECIFICATION SHEETS FOR THE HV0629 VALVE AND ANY AND ALL REFERENCES TO THE SPECIFICATION SHEETS AND THE ALLEGED DISCREPANCY REGARDING THE COMPONENT MATERIALS OF THE VALVE.

06/07/2005 652 SO ORDER, ON 06/07/2005 BY SLIGHTS, J., THAT FISHER'S MOTIONS FOR SUMMARY JUDGMENT ARE GRANTED. ALL CLAIMS ASSERTED BY PLTFS; PRAXAIR, INC., MOTIVA ENTERPRISES LLC., AND TEXACO, INC., TEXACO DEVELOPMENT, INC., AGAINST FISHER ARE HEREBY DISMISSED WITH PREJUDICE AND WITHOUT COSTS TO ANY PARTY.

06/08/2005 662 SO ORDER, ON 06/08/2005 BY SLIGHTS, J. IT IS HEREBY ORDERED THAT FISHER'S MOTIONS FOR SUMMARY JUDGMENT ARE GRANTED. ALL CLAIMS ASSERTED BY PLAINTIFFS; PRAXAIR, INC.; MOTIVA ENTERPRISES; AND TEXACO, INC.; TEXACO DEVELOPMENT INC., AGAINST FISHER ARE HEREBY DISMISSED WITH PREJUDICE AND WITHOUT COSTS TO ANY PARTY

06/13/2005 653 ORDER OF REFERENCE: THIS 13TH DAY OF JUNE 2005, THE COURT HEREBY ENTERS THIS ORDER OF REFERENCE TO

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 61

02C-04-263

COMMISSIONER MARK S. VAVALA PURSUANT TO THE PROVISIONS OF TITLE 10, SECTION 512 OF THE DELAWARE CODE AND SUPERIOR COURT CIVIL RULE 132 FOR THE PURPOSE OF ASSISTING THE COURT IN DECIDING THE MOTIONS IN LIMINE IN AN ORDERLY AND TIMELY MANNER.
IT IS SO ORDERED BY SLIGHTS, J.

06/17/2005 655 DEFENDANT'S MOTION FOR ADMISSION PRO HAC VICE OF PAUL J GRECO., ESQ. (PA), GARY W. ABER., ESQ. (LOCAL).

06/17/2005 656 DEFENDANT'S MOTION FOR ADMISSION PRO HAC VICE OF HOWARD M. KLEIN, ESQ., (PA), GARY W. ABER., ESQ. (LOCAL)

06/17/2005 657 LETTER DATED 06/17/2005 FROM JOSEPH HANDLON, ESQ. TO SLIGHTS, J., AGENDA TO PROPOSE TO THE COURT IN ORDER TO MAXIMIZE ON MONDAY 6/20/05, RE: DISPOSITIVE AND DAUBERT MOTIONS...

06/21/2005 654 SUBSTITUTION OF COUNSEL OF GARY W. ABER, ESQ. IN PLACE OF MARK C. LEVY, ESQ. JAMES A. KELLER, ESQ. KIMBERLY L. GATTUSO, ESQ. AND CHAD J. TOMS, ESQ. FOR DEFTS FOR DEFTS TEXACO, INC. AND TEXACO DEVELOPMENT CORPORATION.

06/21/2005 #655 SO ORDER, ON 06/20/2005 BY SLIGHTS, J.

06/21/2005 #656 SO ORDER, ON 06/20/2005 BY SLIGHTS, J.

06/27/2005 658 LETTER DATED 06/27/2005 FROM SLIGHTS, J. TO COUNSEL: THE COURT WILL HEAR ORAL ARGUMENT ON THE BALANCE OF THE CASE DISPOSITIVE MOTIONS AND MOTIONS IN LIMINE ON JULY 7, 2005 AT 11:00 A.M.

06/27/2005 660 LETTER DATED 06/27/2005 FROM SLIGHTS, J. TO COUNSEL. PLEASE BE ADVISED THE COURT WILL HEAR ORAL ARGUMENT ON THE BALANCE OF THE CASE DISPOSITIVE MOTIONS AND MOTIONS IN LIMINE ON JULY 7, 2005 AT 11:00

06/29/2005 659 AMENDED ORDER OF REFERENCE SIGNED BY SLIGHTS, J. ON 6/29/05: THE FOLLOWING MATTERS ARE HEREBY DESIGNATED TO COMMISSIONER VAVALA: DOCKET ITEM #'S 571, 572, 573, 574, 575, 576, 577, 579, 580, 581, 582 AND 583 FOR THE PURPOSE OF ASSISTING THE COURT IN DECIDING THE MOTIONS IN LIMINE IN AN ORDERLY AND TIMELY MANNER.

07/01/2005 661 TRANSCRIPT FROM HEARING ON JUNE 20, 2005 BEFORE SLIGHTS, J.

08/30/2005 663 STIPULATION OF DISMISSAL WITH PREJUDICE, EXCEPT THAT NOTHING IN THIS STIPULATION OR IN THE DISMISSAL SHALL BE CONSTRUED TO LIMIT OR PRECLUDE THE CLAIM OR CROSS-CLAIM OF NORTHEAST CONTROLS, INC. AGAINST FISHER CONTROLS, INC., FOR CONTRACTUAL INDEMNITY.

SUPERIOR COURT - NEW CASTLE COUNTY
AS OF 08/27/2007

PAGE 62

02C-04-263
09/01/2005

#663 SO ORDER, ON 08/31/2005 BY SLIGHTS, J.

EXHIBIT 13

LEXSEE 2004 DEL. SUPER. LEXIS 87

THE RYLAND GROUP, INC., Plaintiff, v. SANTOS CARPENTRY COMPANY, INC., A&J BUILDERS APCO, FORMED WALLS FOUNDATIONS BY SCHULTE AND ROSSI, INC., DAVID T. SCHULTE MASONRY, INC., HUHNS CARPENTRY, OMNIWAY SERVICE CO. d/b/a KAPPLER CONSTRUCTION, SAY SERVICE, INC., STATE WIDE PLUMBING, MK BUILDERS, RABSPAN, INC., and UNITED HVAC, INC., Defendants.

C.A. No.: 00C-09-056 SCD

SUPERIOR COURT OF DELAWARE, NEW CASTLE

2004 Del. Super. LEXIS 87

March 2, 2004, Submitted

March 26, 2004, Decided

SUBSEQUENT HISTORY: Motion granted by *Ryland Group, Inc. v. Santos Carpentry Co.*, 2004 Del. Super. LEXIS 88 (Del. Super. Ct., Mar. 26, 2004)

Reargument granted by, in part *Ryland Group, Inc. v. Santos Carpentry Co.*, 2004 Del. Super. LEXIS 312 (Del. Super. Ct., Aug. 31, 2004)

DISPOSITION: [*1] Defendant Santos Carpentry Company's motion for summary judgment granted.

LexisNexis(R) Headnotes

Civil Procedure > Summary Judgment > Motions for Summary Judgment > General Overview

Civil Procedure > Summary Judgment > Standards > Genuine Disputes

Civil Procedure > Summary Judgment > Standards > Materiality

[HN1] A motion for summary judgment requires the court to examine the record to determine whether there are any genuine issues of material fact or whether the evidence is so one-sided that one party should prevail as a matter of law. If, after viewing the record in light most favorable to the nonmoving party, the court finds no genuine issue of material fact, summary judgment is appropriate.

Civil Procedure > Federal & State Interrelationships >

Choice of Law > Significant Relationships

Torts > Procedure > Conflicts of Laws > Significant Relationships

[HN2] Delaware has adopted the most significant relationship test to resolve conflict issues arising out of both contract and tort claims.

Contracts Law > Defenses > Statutes of Limitations

Contracts Law > Types of Contracts > Contracts Under Seal

Governments > Legislation > Statutes of Limitations > Time Limitations

[HN3] Del. Code Ann. tit. 10, § 8196 (1999) provides the statute of limitations applicable to contract cases. Under that provision, a three-year statute of limitations applies unless the action is a debt not evidenced by a record or by an instrument under seal. The common law limitations period of 20 years applies to debts under seal. For an instrument other than a mortgage to be under seal, it must contain language in the body of the contract, a recital affixing the seal, and extrinsic evidence showing the parties' intent to conclude a sealed contract.

Governments > Legislation > Statutes of Limitations > Time Limitations

Torts > Malpractice & Professional Liability > Healthcare Providers

Torts > Procedure > Statutes of Limitations > Accrual of Actions > Discovery Rule

[HN4] The time of discovery exception, in cases other

2004 Del. Super. LEXIS 87, *1

than those of medical malpractice, is narrowly confined in Delaware to injuries which are both (a) inherently unknowable and (b) sustained by a blamelessly ignorant plaintiff.

Governments > Legislation > Statutes of Limitations > Time Limitations

[HN5] If all parties were allowed to toll the statute of limitations until they learned of the legal theory of a proposed action or so pursued an action, there would be no purpose to the statute of limitations.

Contracts Law > Contract Conditions & Provisions > Indemnity

Contracts Law > Contract Interpretation > General Overview

[HN6] Contracts of indemnification are strictly construed.

Contracts Law > Contract Interpretation > General Overview

Contracts Law > Defenses > General Overview

Contracts Law > Formation > Ambiguity & Mistake > General Overview

[HN7] Ambiguous contractual terms are construed against the drafter.

Contracts Law > Contract Interpretation > General Overview

Contracts Law > Defenses > Ambiguity & Mistake > General Overview

Contracts Law > Formation > Ambiguity & Mistake > General Overview

[HN8] For purposes of contract interpretation, the word "contractor" is a general term, and is variously defined. For example, the Delaware Code defines a contractor as an architect, engineer, real estate broker, subcontractor or anyone who provides labor.

Contracts Law > Types of Contracts > Construction Contracts

[HN9] See *Del. Code Ann. tit. 30, § 2501* (2002).

Contracts Law > Types of Contracts > Construction Contracts

Real Property Law > Construction Law > Design

Professionals

[HN10] See *Del. Code Ann. tit. 6, § 3501* (2002).

Contracts Law > Contract Conditions & Provisions > Indemnity

Contracts Law > Contract Interpretation > General Overview

[HN11] Where a contract addresses the issue of indemnification, the court will not enlarge the right of indemnification by implication.

Governments > Legislation > Statutes of Limitations > Time Limitations

Real Property Law > Torts > Construction Defects

Torts > Procedure > Statutes of Limitations > General Overview

[HN12] Delaware has a three-year statute of limitations for tort actions. *Del. Code Ann. tit. 10, § 8106* (1999).

Governments > Legislation > Statutes of Limitations > Time Limitations

Torts > Procedure > Multiple Defendants > Contribution > General Overview

Torts > Procedure > Statutes of Limitations > General Overview

[HN13] Contribution claims arise when one joint tortfeasor has paid more than its pro rata share of a common liability. *Del. Code Ann. tit. 10, § 6302* (1999).

Contracts Law > Breach > Causes of Action > General Overview

Torts > Negligence > General Overview

[HN14] Where an action is based entirely on a breach of the terms of a contract between the parties, and not a violation of some duty imposed by law, a tort action will not lie, and the plaintiff must sue, if at all, in contract.

COUNSEL: Armand J. Della Porta, Esquire, of Kelley, Jasons, McGuire & Spinelli, Wilmington, Delaware, and Judith Anne Gleason, Esquire, and David E. Schroeder, Esquire, of Gleason & Schroeder, LLC, Chicago, Illinois, for Plaintiff The Ryland Group, Inc.

William L. Doerler, Esquire, of White and Williams, LLP, Wilmington, Delaware, and Robert K. Pearce, Esquire, of Ferry, Joseph & Pearce, P.A., Wilmington, Delaware, for Defendant Santos Carpentry Company.

2004 Del. Super. LEXIS 87, *1

Robert J. Leoni, Esquire, of Morgan, Shelsby & Leoni, Newark, Delaware, for Defendant Rabspan, Inc.

Kenneth M. Doss, Esquire, of Casarino, Christman & Shalk, Wilmington, Delaware, for Defendant Statewide Plumbing.

David Malatesta, Esquire, of Kent & McBride, P.C., Wilmington, Delaware, and Donald J. Derweiler, Esquire, of Saul Ewing LLP, Wilmington, Delaware, for Defendant Formed Walls Foundation.

Kevin J. Connors, Esquire, of Marshall, Dennehey, Warner, Coleman & Goggin, Wilmington, Delaware, for Defendant Kappler Construction.

Richard D. Abrams, Esquire, of Heckler & Frabizzio, Wilmington, Delaware, for Defendant Say Service, Inc.

Joseph [*2] Scott Shannon, Esquire, of Tighe, Cottrell & Logan, P.A., Wilmington, Delaware, for Defendant Jahn Carpentry.

Joseph Gabay, Esquire, of Swartz Campbell LLC, Wilmington, Delaware, for Defendant MK Builders.

JUDGES: Judge Susan C. Del Pesco.

OPINION BY: Susan C. Del Pesco

OPINION

ORDER

For the reasons set forth in the Opinion attached hereto, Defendant Santos Carpentry Company's Motion for Summary Judgment is GRANTED.

IT IS SO ORDERED this 26th day of March, 2004.

Judge Susan C. Del Pesco

OPINION

Del Pesco, J.

The plaintiff, the Ryland Group, Inc. ("Ryland") was the owner and general contractor for a housing development in Delaware called Weldin Ridge. Defendant is a subcontractor hired by Ryland to do framing on some of the houses in the development. Defendant seeks summary judgment as to all claims

based on the statute of limitations. The motion is granted as over three years elapsed between the accrual of claims and commencement of the action.

Santos Carpentry -- Framing subcontractor

On August 5, 1994, Santos Carpentry Company, Inc. ("Santos") signed a subcontract agreement with Ryland. The agreement was applicable to projects undertaken by Ryland in the mid-Atlantic [*3] area. In approximately September 1995, Ryland asked Santos to perform the framing work at Weldin Ridge. On or about September 25, 1995, Santos signed an Addendum to Subcontractor Agreement, Occupational Safety and Health Standards. Santos was one of six framing subcontractors hired to construct approximately 60 executive-style homes.

Santos completed its framing work at Weldin Ridge by June 28, 1996. In early 1997, Ryland began receiving complaints from a few of the Weldin Ridge homeowners about structural problems. In February 1997, Ryland notified all of its subcontractors about the complaints involving the homes and asked them to attend a meeting to discuss the damage that was appearing in a number of the homes. Some of the subcontractors attended the meeting, Santos did not. On March 12, 1997, Santos informed Ryland that it would not make any repairs at Weldin Ridge.

Ryland hired an expert in 1996, Weintraub Engineering, to resolve problems related to a few homes. Weintraub was rehired in 1997 to examine the whole development. Weintraub prepared reports in 1997 and into 1998 detailing various structural problems.

This lawsuit was commenced on September 11, 2000.

Legal [*4] Standard for Summary Judgment

[HN1] A motion for summary judgment requires the Court to examine the record to determine whether there are any genuine issues of material fact or whether the evidence is so one-sided that one party should prevail as a matter of law.¹ If, after viewing the record in light most favorable to the nonmoving party, the Court finds no genuine issue of material fact, summary judgment is appropriate.²

¹ *Burkhart v. Davies*, 602 A.2d 55, 59 (Del. 1991).

2004 Del. Super. LEXIS 87, *4

2 *Hammond v. Colt Industries Operating Corp.*,
565 A.2d 558, 560 (Del. 1989)

Conflicts of Law

Santos argues that the Delaware statute of limitations applies under conflict of law principles. Ryland provides no facts to assist in the analysis of choice of law, arguing only that Santos' motion "does not set forth the necessary facts to determine whether New Jersey or Delaware law should apply to plaintiff's contract based claims."³

3 Plaintiff The Ryland Group's Response Brief to Defendant Santos Carpentry Company's, "Revised" Motion for Summary Judgment, at p. 8.

[*5] [11N2] Delaware has adopted the most significant relationship test to resolve conflict issues arising out of both contract and tort claims.⁴ I surmise that the initial contract between Ryland and Santos was not executed in Delaware. Santos informs that neither Ryland nor Santos are Delaware corporations, Santos being a New Jersey corporation and Ryland being either a New Jersey or a Maryland corporation.⁵ The facts provided to the Court are that this dispute arises out of construction which occurred in Delaware, and that the claims for which Ryland is seeking payment are liquidated claims brought by homeowners in Delaware who purchased the Ryland homes and a limited number of direct claims for Ryland-owned properties. Under the conflict of laws analysis, Delaware has the greatest contact with the case. Delaware law will be applied.⁶

4 See *Oliver B. Cannon & Son, Inc. v. Dorr-Oliver, Inc.*, 394 A.2d 1160, 1161 (Del. 1978); *Travelers Indemnity Co. v. Lake*, 594 A.2d 38, 48 (Del. 1991).

5 The defendants filed summary judgment motions previously. They were withdrawn to permit further discovery. The first trial date was deferred, and the case is now within a few weeks of a second trial date. The opportunity for thorough discovery has been provided.

[*6]

6 Santos argues for the application of 10 Del. C. § 8121, the Delaware borrowing statute. Section 8181 has no application here because the conduct which gives rise to this claim happened in Delaware. This is not a cause of action arising outside Delaware.

The Contract Claims

Title 10, Section 8106 of the Delaware Code [11N3] provides the statute of limitations applicable to contract cases. Under that provision, a three-year statute of limitations applies unless the action is a "debt not evidenced by a record or by an instrument under seal" The common law limitations period of 20 years applies to debts under seal.

7 DEL. CODE ANN. tit. 10, § 8106 (1999).

It is clear from the cases construing § 8106 that documents of debt, such as mortgages or promissory notes, escape the three year limitation if they contain the most minimal reference [*7] to a seal.⁸ But actions arising from other types of contracts must show a clearer intent to enter into a contract under seal. In *American Telephone & Telegraph Co. v. Harris Corp.*,⁹ Vice Chancellor, now Justice, Jacobs, quoting from *the Aronow Roofing Co. v. Gilbane Building Co.*,¹⁰ stated:

In Delaware, for an instrument other than a mortgage to be under seal[.] . . . it must contain language in the body of the contract, a recital affixing the seal, and extrinsic evidence showing the parties' intent to conclude a sealed contract. The mere existence of the corporate seal and the use of the word "seal" in a contract do not make the document a specialty There is simply no manifested intent to create a contract under seal; no language in the body of the contract to suggest that the contract is under seal; and no recital appears before the corporate seal to evidence any intent to create a specialty.
[1]

8 See *Milford Fertilizer Co. v. Hopkins*, 897 A.2d 580 (Del. Super. 2002); *Greater New York Savings Bank v. Sky-Drummond Assoc., L.P.*, 1991 Del. Super. LEXIS 103, C.A. No. 90L-10-3-JMT, 1991 WL 53375 (Del. Super. Mar. 15, 1991); *River Bank America v. Tally-Ho Assoc., L.P.*, 1991 Del. Super. LEXIS 91, C.A. No. 90L-JN-21, 1991 WL 35719 (Del. Super. Feb. 22, 1991); *Monroe Park v. Metropolitan Life Ins. Co.*, 457 A.2d 734 (Del. 1982); cf. *Peninsula*

Methodist Homes and Hosps. Inc. v. Architect's Studio, Inc., et al., 1985 Del. Super. LEXIS 1461, C.A. No. 83C-AU-118, 1985 WL 634831 (Del. Super. Aug. 28, 1985).

[*8]

9 C.A. No. 92C-01-27, 1993 WL 401864 (Del. Super. Sept. 9, 1993).

10 902 F.2d 1127 (3rd Cir. 1990).

11 *American Telephone & Telegraph*, C.A. No. 92C-01-27, 1993 WL 401864 at *7.

Neither the subcontractor agreement nor the addendum demonstrates the requisite intent to create a contract under seal. The testimonium clause in the subcontractor agreement contains the only reference to a seal. It says: "IN WITNESS WHEREOF, the parties have executed and sealed this Agreement on the date below written[.]"¹² The only reference to a seal in the addendum is the word "(Seal)" located to the right of the signature lines. This is not a debt action. This is a contract action between an owner/general contractor and a subcontractor. The references to a seal are insufficient to demonstrate an intent to create a contract under seal. This claim is governed by a three-year statute of limitations period.¹³ Since Santos clearly stated its intention not to take any further action at Weldin Ridge in March 1997, the statute of limitations ran no later than March [*9] 2000.¹⁴ This action was commenced in September 2000, and is therefore barred by the three-year statute unless an exception applies.

12 Ryland Homes Subcontractor Agreement, with Santos Carpentry Co. Inc., Aug. 1994.

13 *Juran v. Bron*, 2000 Del. Ch. LEXIS 143, No. Civ.A. 16464, 2000 WL 1521478 at *11 (Del. Ch. Oct. 6, 2000).

14 Santos argues that since it completed its work no later than June 28, 1996, the statute of limitations runs from that time. Since it is of no consequence to this motion, I will view the facts in a light most favorable to Ryland.

Ryland seeks to invoke the time of discovery rule. It argues that the defects in the framing work performed by Santos or its subcontractors were not discovered until the analysis by Weintraub Engineering was completed in 1998.

The time of discovery exception to the application of the statute of limitations arose initially in the context of medical malpractice cases where the wrong was

inherently unknowable to the injured party.¹⁵ The rule has been applied [*10] in other contexts as well.¹⁶ However, the discovery rule has no application here. As the general contractor at Weldin Ridge, Ryland had complete access to the worksite. Ryland could inspect the work of the subcontractors at will, and was in a position to discover defects in the construction--failures to adhere to its own plans-- if it had chosen to do so. The fact, if it is a fact, that Ryland allowed Santos to cut corners or otherwise defectively perform its work, does not relieve Ryland of its responsibility as the general contractor. If Ryland was ignorant of the defects, it was not blamelessly ignorant.

15 See *Layton v. Allen*, 246 A.2d 794 (Del. 1968) (both plaintiff patient and defendant doctor were unaware that a foreign substance had been left in the plaintiff's body). See also *Cole v. Delaware League for Planned Parenthood*, 530 A.2d 1119 (Del. 1987) (plaintiff patient alleged an injury of sterility as a result of a performed abortion).

16 [HN4] The time of discovery exception, in cases other than those of medical malpractice, is narrowly confined in Delaware to injuries which are both (a) "inherently unknowable" and (b) sustained by a "blamelessly ignorant" plaintiff. *Began v. Dixon*, 547 A.2d 620 (Del. Super. 1988) (legal malpractice action where statute of limitations began to run when client consulted with independent counsel); *Hodges v. Smith*, 517 A.2d 299 (Del. Super. 1986) (negligence action against surveyor was unknowable by property owner until another survey was performed since error not in plain view); *Pack & Process, Inc. v. Celotex Corp.*, 503 A.2d 646 (Del. Super. 1985) (fraud and negligence action against roofer where statute of limitations tolled because defect concealed); *Rudginski v. Pullella*, 378 A.2d 646 (Del. Super. 1977) (negligence, contract and fraud action against plumbers who installed underground septic system, statute of limitations began to run when plaintiffs had notice of the problem, or could have discovered it by the exercise of reasonable diligence and care).

[*11] Ryland's reliance on *Butzke v. Schaefer*¹⁷ is misplaced. The plaintiffs in *Butzke* were the homeowners, the defendant was the builder. The plaintiffs occupied the property in August 1990. In May 1993, the plaintiff attempted to sell the house. In the course of that effort, a

structural inspection was conducted which revealed structural defects. The Court denied summary judgment on the breach of contract action on the grounds that there remained a fact issue as to whether the time of discovery commenced at the time of the breach, or at the time the non-breaching party discovered, or should have discovered, the breach. Here, it is the contractor—not the homeowner—who is alleging ignorance. A contractor cannot claim to be blamelessly ignorant when it had a duty and an opportunity to inspect and simply failed to do so. The fact that the consulting expert did not provide a report for a year beyond the time that a problem was evident is of no consequence. [HN5] "If all parties were allowed to toll the statute of limitations until they learned of the legal theory of a proposed action or so pursued an action, there would be no purpose to the statute of limitations." ¹⁸

17 C.A. No. 94C-07-04, 1995 WL 339058 (Del. Super.); *aff'd in part, rev'd in part, subnomi, Schaefer v. Butake*, 692 A.2d 413 (Del. 1996).

[*12]

18 *Began*, 547 A.2d at 623-24.

Summary Judgment as to all breach of contract claims—including express or implied warranty claims—is GRANTED.

Indemnification claims

Santos has also moved for summary judgment on Ryland's claim for indemnification.

The contract between Ryland and Santos is a form agreement with blank areas which are filled in so that the agreement can be adapted to various subcontractors. The title of the agreement is "SUBCONTRACTOR AGREEMENT." It begins (with handwritten portions italicized here):

For the consideration herein set forth, Santos Carpentry Co. Inc. ("Subcontractor") and the Delaware Valley East Division of THE RYLAND GROUP, INC., ("Ryland") agree as follows:

1. Subcontractor has represented that it is skillful, proficient and experienced in the craft or trade of *Priming*.

7. Subcontractor warrants and represents that it is familiar with and in compliance with all laws, . . . all applicable laws relating to Workman's Compensation, minimum wages and overtime, and discrimination in employment. Subcontractor [*13] will maintain all records . . . will indemnify and save Ryland harmless, to the extent permitted by law from any damage, fine or penalty which may be assessed against them or either of them by reason of Subcontractor's breach of any laws, regulations or rulings.

8. Subcontractor shall maintain at its expense [recites obligation to have certain levels of workers compensation and liability insurance, and requirements regarding proof of insurance]. The contractor shall indemnify and hold Ryland harmless from and against any and all liability, damage and expense in connection with claims arising out of or resulting from the performance of the contractor's work provided that such claim is caused in whole or partly by any negligent act or omission of the contractor, its agents or employees." (emphasis supplied) ¹⁹

19 Ryland Homes Subcontractor Agreement, with Santos Carpentry Co. Inc., Aug. 1994.

Santos argues that the indemnity provision is ambiguous because in the contract Santos is identified [*14] as the subcontractor, while the indemnity provision speaks of the contractor's work. I note that the indemnity language in paragraph 7 refers to subcontractor's indemnity obligation, but curiously, the language in paragraph 8 does not.

[HN6] Contracts of indemnification are strictly construed. ²⁰ [HN7] Ambiguous contractual terms are construed against the drafter. ²¹ Under the circumstances here presented, I find that the contract is ambiguous as to the indemnity obligations in paragraph 8 since there is no

contractor defined in the contract. [HN8] The word "contractor," is a general term, and is variously defined. For example, the Delaware Code defines a contractor as an architect, engineer, real estate broker, subcontractor or anyone who provides labor.²² Use of the word contractor creates an ambiguity in the Ryland agreement. The ambiguity is thus construed against Ryland as the drafter. The indemnification provision in paragraph 8 is not enforceable as to Santos.

20 *Waller v. J.E. Brenneman Co.*, 307 A.2d 559, 551 (Del. Super. 1973).

21 *Kaiser Aluminum Corp. v. Mutheson*, 681 A.2d 392, 398 (Del. 1996).

[*15]

22 "Contractor" includes every person engaged in the business of:

[HN9] i. Furnishing labor or both labor and materials in connection with all or any part of construction, alteration, repairing, dismantling or demolition of buildings, roads, bridges, viaducts, sewers, water and gas mains and every other type of structure as an improvement, alteration or development of real property; a person is a contractor regardless of whether the person is a general contractor or a subcontractor, or whether the person is a resident or a nonresident; in addition "contractor" shall include "construction transportation contractors" which shall include persons engaged in the business of contracting for transporting tangible property of other persons in connection with all or any part of the construction, alteration, repairing, dismantling or demolition of buildings, roads, bridges, viaducts, sewers, water and gas mains and every other type of structure as an improvement, alteration or development of real property but shall not include draypersons as defined in § 2301(a) of this title; or

b. Real estate development,

DEL. CODE ANN. tit. 39, § 2501 (2002);

[HN10] "Contractor" includes, but is not limited to, an architect, engineer, real estate broker or agent, subcontractor or other person, who enters into any contract with another person to furnish labor and/or materials in connection with the erection, construction, completion, alteration or repair of any building or for additions to a building, by such contractor, or for the sale to such other person of any lands and premises, whether owned by such contractor or another, upon which such contractor undertakes to erect, construct, complete, alter or repair any building or addition to a building.

DEL. CODE ANN. tit. 6, § 3501 (2002).

[*16] Ryland also makes a claim of implied indemnification. [HN11] Where a contract addresses the issue of indemnification, the court will not enlarge the right of indemnification by implication.²³ Ryland cannot recover on an implied right of indemnification.

23 *Waller*, 307 A.2d at 552.

The Tort Claims

The claim here arises from defects in the construction of houses. Santos finished framing at Weldin Ridge by June 28, 1996. The record is unclear as to whether repairs were made after that date. The record demonstrates that no later than March 12, 1997, Santos indicated that it would not do any further repairs. [HN12] Delaware has a three year statute of limitations for tort actions.²⁴ The statute of limitations ran no later than June 28, 1999. For the reasons discussed above, there is no exception based on time of discovery which tolls the running of the three year period. All tort actions by Ryland are barred by the statute of limitations.

24 DEL. CODE ANN. tit. 10, § 8106 (1999).

[*17] Contribution

To the extent that Ryland seeks to recover from Santos based on a theory of contribution, the three year statute of limitations may not bar the claim because [HN13] contribution claims arise when one joint tortfeasor has paid more than its *pro rata* share of a common liability.²⁵

25 DEL. CODE ANN. tit. 10, § 6302 (1999); *Fehlhaber v. Indian Trails, Inc.*, 45 F.R.D. 283 (D. Del. 1968), *aff'd* 425 F.2d 715 (3rd Cir. 1970); *Disefano v. Lamborn*, 46 Del. 195, 7 Terry 195, 81 A.2d 675, 680 (Del. 1951).

Santos argues that Ryland cannot pursue a contribution claim because contribution requires joint liability to another, in this case, the homeowners, and there is no legal basis for such a claim. Ryland responds that its contribution claim is based on the allegation that Ryland and Santos were both potentially liable in tort to the homeowners, thereby justifying its tort action. It cites in support of its contention the case of *ICI America*. [*18] *Inc. v. Martin-Marietta Corp.*²⁶

26 368 F. Supp. 1148 (D. Del. 1974).

Ryland's reliance on *ICI* is misplaced. *ICI* involved an owner who contracted with Healey ("contractor") to build a facility. Martin-Marietta ("material supplier") provided a product which was used for flooring. When the flooring failed, *ICI* brought a claim against the material supplier based on the warranties associated with the product. The material supplier filed a third-party action against the contractor for contribution alleging that the contractor had failed to use the product properly.²⁷ The court found that allegations in the third-party complaint were sufficient to survive a motion to dismiss for failure to state a claim, because there was a possibility that the material supplier and the contractor could be

jointly liable.²⁸

27 *Id.* at 1149.

28 *Id.* at 1151.

[*19] This summary judgment motion is considered with trial imminent. Discovery is complete, the factual record has been developed. This is not a time to consider possibilities. This claim is readily distinguishable from *ICI* because the homeowners whose claims against Ryland give rise to this case had no legal basis for a claim against Santos. The homeowners had no contract with Santos. Santos' duties, and thus its obligations, arose entirely from the contract it had with Ryland. The facts do not indicate any independent basis for recovery such as a violation of law. [HN14] Where an action is based entirely on a breach of the terms of a contract between the parties, and not a violation of some duty imposed by law, a tort action will not lie, and the plaintiff must sue, if at all, in contract.²⁹

29 *Garber v. Whittaker*, 36 Del. 272, 6 W.W. Harr. 272, 174 A. 34, 36 (Del. Super. 1934); see also *Heronemus v. Ulrick*, 1997 Del. Super. LEXIS 266, C.A. No. 97C-03-168, 1997 WL 524127 (Del. Super. July 9, 1997); *Ulmer v. Whitfield*, C.A. No. 80C-NO-16, 1985 Del. Super. LEXIS 1279 (Del. Super. Sept. 10, 1985).

[*20] Santos' motion for summary as to all tort-based actions, including contribution, is GRANTED.

Other Claims

The Court acknowledges the other arguments raised by Santos in its motion. It is not necessary for the Court to reach those arguments due to the conclusions reached in the discussion above.

EXHIBIT 14

LEXSEE 1999 DEL. SUPER. LEXIS 460

Council of the Wilmington Condominium, Plaintiff, v. Wilmington Avenue Associates, L.P., a Limited Partnership, and Michael R. Kain, Defendants.

Civil Action No. 94C-09-004

SUPERIOR COURT OF DELAWARE, SUSSEX

1999 Del. Super. LEXIS 460

August 10, 1999, Date Submitted

November 3, 1999, Date Decided

SUBSEQUENT HISTORY: Related proceeding at *Council of the Wilmington Condo. ex rel. Unit Owners of the Wilmington Condo. v. Wilmington Ave. Assocs., L.P.*, 815 A.2d 348, 2003 Del. LEXIS 718 (Del., 2003)

PRIOR HISTORY: *Wilmington Ave. Assocs., L.P. v. Council of the Wilmington Condo. (ex rel. Unit Owners of the Wilmington Condo. Ass'n)*, 734 A.2d 161, 1999 Del. LEXIS 112 (Del., 1999)

DISPOSITION: [*1] Motion for Attorney's Fees Granted.

LexisNexis(R) Headnotes

Civil Procedure > Remedies > Costs & Attorney Fees > General Overview

Civil Procedure > Appeals > Appellate Jurisdiction > Lower Court Jurisdiction

[HN1] In general, a trial court retains jurisdiction to determine the propriety and amount of attorneys' fees and to award costs and attorneys' fees after a matter has been appealed. Because the award of appellate attorneys' fees is distinct from the issues on appeal, the perfection of the appeal does not deprive the trial court of jurisdiction to make such an award.

Civil Procedure > Removal > Postremoval Remands > Jurisdictional Defects

Civil Procedure > Remedies > Costs & Attorney Fees > General Overview

[HN2] The family court's jurisdiction to award attorneys'

fees is not dependent upon a remand from the superior court for that purpose.

Civil Procedure > Remedies > Costs & Attorney Fees > Attorney Expenses & Fees > Statutory Awards

[HN3] Generally, in Delaware, in an action at law, a court may not order the payment of attorney's fees as part of the costs to be paid by the losing party unless the payment of such fees is authorized by some provision of statute or contract.

Civil Procedure > Remedies > Costs & Attorney Fees > General Overview

[HN4] The superior court, unlike the Delaware Supreme Court, is not constrained by a record on appeal and is in the unique position of being able to view all the evidence, including affidavits. Thus, the superior court may appropriately evaluate the reasonableness of any sum claimed as attorneys' fees.

Civil Procedure > Remedies > Costs & Attorney Fees > General Overview

[HN5] Before awarding attorneys' fees, the superior court must independently evaluate the reasonableness of the fees sought by the plaintiff.

Civil Procedure > Remedies > Costs & Attorney Fees > Attorney Expenses & Fees > Reasonable Fees

[HN6] In Delaware, attorneys' fees are evaluated for their reasonableness using the factors set forth in Del. Professional Conduct R. 1.5(a).

COUNSEL: Gary R. Dodge, Esquire, Law Offices of

1999 Del. Super. LEXIS 460, *1

Gary R. Dodge, P.A., Dover, Delaware, Attorney for the Plaintiff.

Gregory W. Williams, Esquire, and Dorian Rowe Kleinstuber, Esquire, The Law Office of Gregory W. Williams, Rehoboth Beach, Delaware, Attorneys for the Defendants.

JUDGES: Lee, Judge.

OPINION BY: Lee

OPINION

MEMORANDUM OPINION

Lee, Judge

This case has a long history in this Court and is presently before the Court on what is denominated a Motion for Entry of New Judgment following an appeal to the Delaware Supreme Court. But, as this Motion is really in the nature of a Motion for Attorneys' Fees, it will be treated as such. At issue, is the following question:

Where a plaintiff wins its case in the Superior Court and is awarded attorneys' fees pursuant to a contract between the parties, and the defendant appeals the decision to the Supreme Court and the trial court's award is affirmed, does the Superior Court maintain jurisdiction over the case so that it may award attorneys' fees to the Plaintiff for its defense of the appeal?

For the reasons discussed below, this Court finds that the Court does have jurisdiction and may properly award [*2] attorney's fees for the appeal.

Nature and Stage of Proceedings

As this litigation has wound its way through the courts since 1994, both the Court and the parties are comfortably familiar with the facts giving rise to the dispute. For this reason, a full recitation of the facts would be repetitive. Therefore, this Opinion fully incorporates the findings of this Court in Orders dated March 31, 1998, and October 24, 1997.

In the Order of October 24, 1997, this Court ruled in favor of the Plaintiff following a trial on the merits. However, the Court did not calculate the sums the

Defendants owed. Rather it generally awarded the Plaintiff the money it sought in this debt action and "reasonable attorneys' fees" and instructed the parties to calculate the sum certain using the Court's decision as a guideline. See *Council of the Wilmington Condominium v. Wilmington Ave. Assoc.*, 1997 Del. Super. LEXIS 516, Del. Super., C.A. No. 94C-09-004, Lee, J. (Oct. 24, 1997) Post-Trial Decision at 23. When the parties could not agree on the calculations of the amounts owed, the Court ordered the Defendants to pay the Plaintiff \$ 35,309.67 on the debt, \$ 4,980.00 in interest, and \$ 21,273.75 for attorneys' fees. [*3] See *Council of the Wilmington Condominium v. Wilmington Ave. Assoc.*, Del. Super., C.A. No. 94C-09-004, Lee, J. (March 31, 1998) Letter Op. at 3.

The Defendants appealed these decisions to the Delaware Supreme Court. However, on April 13, 1999, the Supreme Court affirmed the decision of the Superior Court and adopted as its decision, "the well-reasoned Orders of the Superior Court dated March 31, 1998 and October 24, 1997." *Wilmington Ave. Assoc. v. Council of the Wilmington Condominium*, Del. Supr., 734 A.2d 161, Hartnett, J. (1999) (ORDER). The Plaintiff now asks this Court to award attorneys' fees for defending the appeal to the Supreme Court. The Defendants, in their Response to Plaintiffs' Motion for Entry of New Judgment, argue that this Court no longer has jurisdiction to award attorneys' fees, and even if it did, the contract provision for attorneys' fees is inapplicable in the present situation.

DISCUSSION

[*1] "In general, a trial court retains jurisdiction to determine the propriety and amount of attorneys' fees and to award costs and attorneys' fees after a matter has been appealed. . . . Because the award of appellate attorneys' fees is distinct [*4] from the issues on appeal, the perfection of the appeal does not deprive the trial court of jurisdiction to make such an award." 5 Am. Jur. 2d *Appellate Review* § 431 (1995). While this precise question appears to be an issue of first impression with regards to the Superior Court, this exact problem has been addressed where the appeal was from the Family Court. [*2] In *Wheeler v. Wheeler*, the Delaware Supreme Court ruled that "the Family Court's jurisdiction to award attorneys' fees is not dependent upon a remand from this Court for that purpose." *Wheeler v. Wheeler*, Del. Supr., 635 A.2d 888, 890 (1993). See also *Coleman v. Coleman*, 1998 Del. LEXIS 497, Del. Supr., No. 445,

1998, Holland, J. (ORDER) ("This Court previously has held (in Wheeler) that the Family Court has original jurisdiction to award attorneys' fees following an appeal to this court.").

The Wheeler case arose in a context that is factually similar to the case before this Court. There, in a divorce action, the wife appealed to the Supreme Court the final judgment and most of the interlocutory rulings of the Family Court. The Supreme Court affirmed the lower court without remanding for additional action. [*5] This is the same procedural history as in the present case before this Court.

[HN3] Generally, in Delaware, "in an action at law, a court may not order the payment of attorney's fees as part of the costs to be paid by the losing party unless the payment of such fees is authorized by some provision of statute or contract." *Casson v. Nationwide Ins. Co.*, Del. Supr., 455 A.2d 361, 370 (1982). In arriving at their ruling in Wheeler, the Supreme Court examined the statutory provision governing the award of attorneys' fees in Family Court (13 Del. C § 1315). Here, any award of attorneys' fees will be under the provisions of a contract entered into by the parties, the Code of Regulations of The Wilmington Condominium ("Code of Regulations"). In Article 9, the parties agreed that:

In any proceeding arising out of any alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceeding, and such reasonable attorneys' fees as may be determined by the court. Code of Regulations, Art. 9(A)(2).

Despite the Defendant's arguments to the contrary, the appeal to the Supreme Court was a "proceeding arising out of any alleged default." [*6] . . . The Defendants, in their Response to Plaintiffs Motion, argue that:

At the time the Defendants filed the appeal, Defendants had paid the entire indebtedness this Court deemed Defendants owed thus satisfying the judgment in this Court. Thus, there was no default at issue on appeal. Response at Para. 5.

While certainly creative, this argument misses the mark. Were it not for the default of the Defendant originally, these parties would not be caught up in this protracted litigation. The appeal to the Supreme Court was but another facet of this multifaceted case. Thus, the appeal was a "proceeding" covered by the contract provision. Moreover, as required by the contract clause, the Plaintiff was the prevailing party both at the trial court and on appeal.

Finally, this Court must determine whether it has jurisdiction to award such attorneys' fees and, if so, if those fees are reasonable. While the Supreme Court did not discuss the policy reasons behind their holding in Wheeler, I believe that the situations are so similar as to warrant an extension of that holding to this case and this Court. [HN4] This Court, unlike the Supreme Court, is not constrained by a record on [*7] appeal and is in the unique position of being able to view all the evidence, including affidavits. Thus, this Court may appropriately evaluate the reasonableness of any sum claimed as attorneys' fees. Moreover, by retaining jurisdiction, this Court can rule on this issue now and keep all parts of this litigation together. To do otherwise would require the Plaintiff to file a new action against the Defendants seeking these attorneys' fees. This, however, would multiply the amounts sought and is certainly not a wise use of scarce judicial resources.

[HN5] Before awarding attorneys' fees, this Court must independently evaluate the reasonableness of the fees sought by the Plaintiff. ¹ [HN6] In Delaware, attorneys' fees are evaluated for their reasonableness using the factors set forth in the Delaware Professional Conduct Rules, Rule 1.5(a). See, *General Motors Corp. v. Cox*, Del. Supr., 304 A.2d 55, 57 (1973). I have reviewed the Plaintiff's application for attorneys' fees using the factors enumerated in Rule 1.5 and find the fees are reasonable.

¹ The Court notes that the Defendant's do not dispute the "reasonableness" of the attorneys' fees.

[*8] CONCLUSION

I find that this Court retains its jurisdiction to award attorneys' fees following an appeal to the Supreme Court. Moreover, I find that the attorneys' fees claimed by the Plaintiff for the appeal to the Supreme Court are reasonable. Thus, the Defendant is ordered to pay to the

1999 Del. Super. LEXIS 460, *8

Plaintiff the amount claimed, \$ 6,939.60.

IT IS SO ORDERED.

EXHIBIT 15

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

NORTHEAST CONTROLS, INC.	:	CIVIL ACTION – LAW
and	:	
ST. PAUL MERCURY INSURANCE COMPANY	:	
	:	
	:	
v.	:	
	:	
	:	
FISHER CONTROLS INTERNATIONAL, LLC	:	NO. 1:06-CV-00412 (SLR)

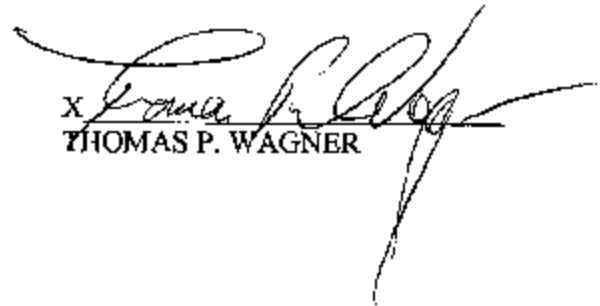
AFFIDAVIT OF THOMAS P. WAGNER

COMES NOW Thomas P. Wagner, Esquire, ("Affiant"), who, having been duly sworn according to law, doth DEPOSE and SAY:

1. I speak from personal knowledge and am competent to make this Affidavit.
2. I am an attorney admitted to the practice of law and in good standing since 1978 in the states of New York and Pennsylvania.
3. I represented Northeast Controls, Inc., in defense of the personal injury and property damages claims in the underlying litigation giving rise to this contractual indemnification action.
4. On behalf of Northeast Controls, Inc., ("Northeast"), I requested indemnification from Fisher Controls, Inc., pursuant to the Representative Agreement, and received in response correspondence from Fisher Controls, Inc., ("Fisher"), committing Fisher to defend and indemnify Northeast against claims unrelated to Northeast's negligence.
5. Claims were asserted against Northeast in the underlying litigation. Since Fisher failed to defend and indemnify, Northeast was forced to defend itself through its own insurer.

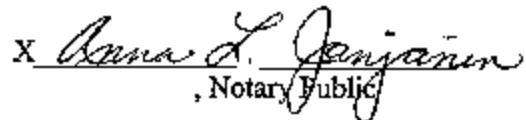
6. Fisher retained an expert by the name of Dr. Robert Mostello who published an opinion produced by Fisher during the underlying litigation to all parties finding that the fire and explosion from which the underlying litigation arose were caused by factors and parties having no relationship to the design and manufacture of the valve.

7. I attended the mediation before Magistrate Judge Thyngc on August 15, 2007, and it was while the mediation was underway that Northeast was informed that Fisher was in the process of filing its *Motion to Amend Counterclaim*.

X 
THOMAS P. WAGNER

State of Pennsylvania)
County of Philadelphia) SS.

BE IT KNOWN that on this 28th day of August, 2007, before me, a Notary Public in the State and County aforesaid, did appear THOMAS P. WAGNER who, being made personally known to me, did swear and make the foregoing statement his very own.

X 
, Notary Public

My Commission expires:

